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## Legislative Assembly of Ontario

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Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 2 February 1994

# Journal des débats (Hansard)

Mercredi 2 février 1994

**Standing committee on  
general government**

Residents' Rights Act, 1993

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
Clerk: Franco Carrozza

Président : Michael A. Brown  
Greffier : Franco Carrozza





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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 2 February 1994

The committee met at 1001 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** The standing committee on general government will come to order. The business of the committee is to deal with public deputations regarding Bill 120, An Act to amend certain statutes concerning residential property.

WEST SCARBOROUGH  
COMMUNITY LEGAL SERVICES

**The Chair:** This morning our first presentation will come from the West Scarborough Community Legal Services. Welcome to the committee. You've been allocated one half-hour for your presentation, during which time the members often like to ask some questions and receive some responses regarding the presentation. You may begin when you're ready by introducing yourself and your position within the organization.

**Ms Sheeba Sibal:** Good morning. My name is Sheeba Sibal and I work as a community legal worker at West Scarborough Community Legal Services, a non-profit organization. It's a free legal aid clinic and we help low-income clients within our catchment area with their legal problems in certain areas of law.

As a legal clinic, we have found over the five years we've been in existence that the major case load we have is of landlord and tenant problems. In 1993 alone, of the cases we dealt with in terms of giving summary advice to people, 42% of our case load was landlord and tenant, and about a third of that dealt with people living in units which were accessory units, or in other words, illegal units in Scarborough.

I'm happy to be here today to talk about Bill 120, which addresses this issue. The legal clinic's position, in so far as legalizing basement apartments or accessory units is concerned, is that we think it's a good move. The province should be applauded for taking this step. To get this bill passed is a first step, we believe, for legalizing basement apartments and accessory units.

I will be dealing mostly with the accessory units aspect of the bill and limiting our comments on the second aspect, which is the care home facilities aspect and the garden suites.

To give a perspective on how people living in these illegal units are being affected in their lives as the law stands today, I will be giving some case examples of the tenants who come to us to get their problems redressed or to take legal action.

We find that a lot of tenants living in accessory units who come to us have a problem with general maintenance. Whether the landlord is an absentee landlord or is living in the premises in the main portion of the house, the problem is that the property is not maintained properly: The basement is damp, there's not enough heat, there are leaks in the house and there are other general problems with maintenance.

Tenants try their level best to get the landlords to do the proper repairs, but the landlords either will not or are too slow to do them. When they are at their wits' end and they come to our clinic for help to find out what they can do to enforce their rights to get the landlord to correct the problem, they find out that where they're living is illegal, and because of the fact that they are living in an illegal unit, it is not very clear what their rights are.

If these tenants go to the property standards department and complain, the first problem they face is that they are told that they are in an illegal unit. If the property standards inspector comes out and it is proved that there are two units in the house, they will be evicted. They stand to lose their home. The first fear is, "Why should I even go to property standards?"

The second problem or hurdle they face when they go to court to enforce their rights under section 94 of the Landlord and Tenant Act, which gives them the right to ask for a reduction in rent and to get the landlord to do maintenance and repairs, is the interpretation of the law, of the Landlord and Tenant Act itself.

We have found that the courts have not been very consistent in interpreting what are residential premises. In many instances, the courts have held that because the unit is illegal in terms of the Planning Act, in terms of the fact that it is another unit in a single-family residence, therefore it should not have been in existence and therefore the tenant does not have the protection of the Landlord and Tenant Act.

On both ends the tenant loses out. They have no protection under the law to enforce their rights, which other tenants could if they were living in a high-rise apartment or other legal units, and they also cannot get the city to get the problem redressed.

The third side of the picture is that even when they are legal units and the city is approached to come and inspect the unit because it does not comply with the standards, they are told that there are not enough inspectors to go around and, "We can't come and see your unit." The tenants seem to lose out on all ends.

Another example we can give is when there are two units in a house and the house is so dilapidated that it becomes a fire hazard. In that case, the fire marshal can step in, close down the unit and ask the tenants to leave. They don't get any notice like they would get from the landlord if they have to leave the property, a 60-day, 120-day or 90-day notice depending on the situation. All they



get is this notice from the municipality, "Pack up and leave." They have no place to go. They may not have enough money to move their stuff out and they are left out on the streets. The municipalities only take up their responsibility to the extent that, "We're saving your lives." That is good. They need to be saved. Their lives are in danger because they're in a hazardous situation. However, no steps are taken to house these people, to find alternative accommodation, to penalize the landlord or to do something to redress the inconvenience they've been put to it.

Our major concern, however, with Bill 120, as is, although we support the bill as being a first step, is that there has been this historical opposition to the bill by several municipalities. What we are concerned with is what will happen if the municipalities choose to do selective enforcement, choose to use the loopholes in the bill to defeat the very purpose of the bill.

The purpose of the bill, as we understand it, is to preserve housing stock, to increase housing stock and to provide safety standards for the people living there.

Under the property standards and the zoning bylaws, there are various types of property standards and zoning bylaws. Some of them are major. They affect the structure of the building, the number of people living there, those aspects.

Some of them are minor infractions; for example, parking. If the landlord has got the permit, made the accessory unit, complied with all the property standards bylaws and complied with all the health and safety regulations and fire regulations, but does not have enough parking, would it be fair then, if such a landlord rents it to a tenant and a neighbour does not like the idea of a tenant or does not like the tenant because of whatever reason, racial prejudice or any other type of prejudice, and goes and complains, and the city comes in and asks the landlord to close down the unit because there is a minor infraction of parking? That's a zoning bylaw. They have violated it, but would it be fair to close down that unit? This can happen. The municipalities have the power to issue that notice, "Correct the infraction or it's penalty or prosecution."

1010

What option does the landlord have? They're not going to court for that. They're not going to pay \$50,000 or \$20,000 or \$2,000, whatever fine is imposed. They will ask the tenant to leave. We are back in the same position. The tenants lose their homes, not because of their own making, not because of their own fault; it is because of the legislation and the way it is being enforced.

Take another problem. There have been several municipalities that have recently passed an overcrowding bylaw in the greater Metro Toronto area. Apparently, on the face of it, it sounds like a very good bylaw, that people shouldn't be living in overcrowded conditions. The reality is, however, that people are living in overcrowded conditions because they have no place else to go. They don't have enough money to take larger accommodation, and strangely enough—I wouldn't say "strangely enough"—the fact is that there are some large families, quite a few now, who don't find proper accommodation

because that type of accommodation is not available.

The homes that are designed are meant for smaller families. Just because it happens that the family has five or six children, they cannot rent a high-rise apartment or a condominium because they don't have more than two or three bedrooms. The only option for them is to go and rent out in a home. Homes might be divided into two units now.

In an example, a home owner who has a large family buys a house and then, because he or she needs the money to pay the mortgage, creates an accessory unit and rents it out. What has happened in this case is that the home owner is violating the overcrowding bylaw. The complete home may have been okay in terms of the bylaw, but once they rent out a portion of it, their area has been reduced and therefore they're violating the overcrowding bylaw.

Take the same situation and the tenant who comes into that particular accessory unit may initially be in perfect compliance with the bylaw, but has another child, and suddenly it is overcrowding. Should this tenant be asked to move? Should the landlord or the home owner be asked to sell their house? What is going to happen? Are they going to tell their children to leave? These aspects have to be looked at very closely, and that is our concern.

The Planning Act as it is now, and the bill as it is now, do not address the issue of, if there is a violation, should the enforcement be to such an extent that it ends in closing down the unit? That aspect has to be looked at.

The other aspect we have a major concern with is the aspect of enforcement and the greater powers of entry given to the municipalities and the municipal inspectors now. Our stand, our belief is that an individual's right to be protected from search and seizure is embedded in the Charter of Rights. In a few extreme cases, overriding this right is justifiable because of the greater public good, but even in such cases, it must be first proved that the public interest cannot be served by any other means or by a less intrusive means.

In this country where police cannot easily invoke their mandate to protect and serve, where they cannot enter a person's home and invade their privacy unless it is dire need and they can show it was a necessity, it is an anomaly that we have given increased power of entry to municipalities. To enforce what? The conditions in which people live.

We're not saying the municipalities should not have any right to enter homes to inspect whether there are safety standards, where safety of individuals is involved. In fact, under the Fire Marshals Act, the fire marshal can enter a person's property there it is a fire hazard and close it down. They don't need a search warrant for it.

However, as to enforcing property standards or zoning standards that do not have the effect of putting a person's life in danger, it does not make sense to give them that much power over people's lives and privacy. If it is important, and we do believe it is important when people's lives are in danger, then they should have that power, but we believe that if it is important in the public good to save lives and maintain housing stock in livable



conditions, then there should be some checks imposed to prevent the misuse of power given to the municipalities.

We have three recommendations for that: We recommend that search warrants should not be obtained or issued for minor zoning infractions, that search warrants should only be issued in cases of major property standard violations, and that the province should give direction to the municipalities as to the situations in which obtaining a search warrant is appropriate.

The third point I'd like to make is about the specific wording of two sections in Bill 120. We believe that the wording of those sections is slightly vague, in fact, quite vague and unclear, and can cause confusion that could lead to imposition of penalties in circumstances that would again lead to closing the unit. They are subsection 38(3) and 49(2) of Bill 120.

Subsection 38(3) of Bill 120 amends section 31 of the Planning Act by adding subsection 31(5.1) to it. I'd like to read that provision: "No person shall obstruct or attempt to obstruct an officer or a person acting under the officer's instructions in the exercise of a power under this section."

Section 31 of the Planning Act has several subsections, about 31 subsections, and it gives all kinds of different powers to the municipality regarding property standards bylaws. It also deals with the powers of inspectors to inspect the premises if there is a contravention of a property standards bylaw and deals with the procedure to enforce such bylaw, if there is a violation.

The wording of subsection 31(5.1) is not clear because it does not specify which one of the powers granted under this section can be obstructed, or if obstructed by the person will lead to a penalty under subsection 31(22), which is the section which deals with penalties. It states that if a person obstructs such an officer in their duties of exercising their powers, he or she will be penalized by fines etc.

Subsection 31(5.1) is not clear as to which of those powers, when the inspector comes to enforce and if the person obstructs, will amount to an offence for the penalty to be imposed. This section becomes a little bit more confusing if we read subsection 31(5) in the Planning Act which, if amended by Bill 120, will read as, "Except under the authority of a search warrant issued under section 49.1, an officer or any person acting under his or her instructions shall not enter any room or place actually used as a dwelling without requesting and obtaining the consent of the occupier, first having informed the occupier that the right of entry may be refused and entry made only under the authority of a search warrant."

The wording of this section implies that if the person in authority who comes to inspect the premises does not have a search warrant, then that person in authority cannot enter a room or a place actually used as a dwelling without first obtaining the consent of the occupant of that dwelling. The officer is then further obligated to inform the occupant that such a right of entry can be denied.

What confuses us or what is not clear by reading the two sections together is, if the inspector comes in and tells the person, "I'm here to inspect the property but you

have a right to refuse to let me enter," and then the occupant says, "Okay, I'm not going to let you enter," are they obstructing the officer?

The wording of 31(5.1) just says enforcing the powers of "this section," and "this section" includes all the sections of section 31. If the intention of this bill is that only if the inspector has a search warrant, and in those circumstances when the officer goes to enforce that search warrant the person obstructs, would it amount to an offence, then that should be made clear. It is not clear by reading it in this fashion.

#### 1020

A similar problem exists in 49(3) and 49(4). The wording is identical, however section 49 deals with zoning bylaws as opposed to property standards bylaws. Our concern is that the same type of confusion can arise.

Coming to the aspect of increased powers of entry, there have been arguments that the municipalities need these powers because sometimes even tenants don't cooperate and will not permit the inspector to enter. Our belief is the opposite. In Scarborough especially, we have numerous tenants who have made so many complaints to the property inspectors to come and see their properties, but they will not come, because there are budget cuts or there are not enough inspectors or that's not their priority.

We don't see why anything different will happen in the case of tenants in units which, if Bill 120 is passed, will become legal. That problem might still be there. There will be tenants who will be calling and they will not be coming.

The problem we see in tenants not cooperating is only when the tenants fear that if they do let the inspector in, they will lose their home. That is our concern. All the acts which deal with housing and with protection of tenants do not have the aspect of redressing the tenants' problems, to the extent that if something wrong is done by the home owner or the landlord, it always ends up with the tenant losing his or her home.

Take the example I gave about the overcrowding. In that case, if a neighbour complains and says, "There are too many people living in this place," this is a violation and the inspector comes in. There may not be any problems of noise there, and there may not be any problems of maintenance of property, just the fact that there are too many people living in that apartment. If the inspector comes and the tenant refuses to let him in, knowing that there's overcrowding, would it mean he or she has obstructed the officer?

On the other hand, if we say that we have to give these powers to the inspectors so that they can come in and see if people are living in safe conditions, and the tenants refuse to let them in and the only reason the tenants have refused to let them in is because they know that if they come in and see that there are so many people living there and that they are contravening this bylaw, this place is going to be shut down.

The fear is of losing the unit. They're not going to deny that inspector coming in if they themselves invited the inspector to come in to see the state of the apartment because it was in a horrendous condition. The only time



tenants will refuse to let entry is when they fear any cooperation with the city is going to end up with their losing the apartment.

Our concern therefore is that this aspect of tenants' protection should be looked at, that there should be appropriate safeguards put in the Planning Act so that the punishment suits the crime, and that if there is overcrowding or minor violations of property standards, it not end in the closing of the unit.

**Mr Bernard Grandmaître (Ottawa East):** You say that 42% of your time is, let's say, used to fight with city hall or fight with the LTA, or what is it exactly?

**Ms Sibal:** We have two different types of case loads. One is that we actually go to court or represent people. The second aspect is when we just give advice to people, either over the phone or in person; 42% of that advice, when we are purely giving advice, is on landlord and tenant issues.

**Mr Grandmaître:** I see.

**Ms Sibal:** Of that, a third deals with problems in accessory units.

**Mr Grandmaître:** Accessory units: illegal, most of them, or all of them?

**Ms Sibal:** They're all illegal in Scarborough.

**Mr Grandmaître:** This is what I want to tackle. With all of these complaints that you're receiving about illegal apartments and the right of entry and so on and so forth, how do you report back to municipal council or your municipality of Scarborough that this unit is illegal and should be inspected? Do you keep track of all these illegal apartments?

**Ms Sibal:** No. It is not our mandate to report to the municipality that this unit is illegal and should be inspected. The problem we face is that when we're advising our clients, we give them the option, "You can call property standards to come and inspect your house so that the inspector can give a work order to the landlord to do the proper maintenance"; however, what happens is that if the tenant does call the property standards inspector and lets him or her into the house, the chances are that the unit will be closed down, because it's an illegal unit.

**Mr David Johnson (Don Mills):** I appreciate your deputation. It's good to hear from people who have firsthand knowledge. In terms of the actual number of cases you deal with of illegal accessory apartments in houses, could you give us the exact number?

**Ms Sibal:** I don't have the figures.

**Mr David Johnson:** You've worked out the percentages, but you don't have the numbers.

**Ms Sibal:** I don't have the figure. The 42% is what we've worked out, but we don't have exact figures of so many accessory units and so many apartments in houses and so many condominium problems. I can tell you that about a third is a problem with accessory units.

**Mr David Johnson:** In terms of the powers of entry that you have expressed a great deal of concern about, and this is of great concern to all parties in this whole issue, perhaps from your point of view you may take

heart that the municipalities are certainly interpreting the legislation, Bill 120, that is before us to give them virtually no more powers whatsoever. I think that's what you're hoping for. However, it does raise a concern that municipalities really don't know what is a minor zoning infraction and what is a major safety concern. Looking from the outside, they don't know what's inside and they don't know if what's in there is a minor infraction or some major concern.

The difficulty, and you may want to comment on this, is that while the powers of entry in this bill are virtually worthless to municipalities and they won't be able to get in, the concern they have is that they will then not be able to identify major concerns, and that in that case there'll be more tragedies, more fires, more people lost and the municipalities will be under the gun—"Why didn't you take action? Why didn't you do something to prevent this?"—yet they will not have the tools to deal with it.

**Ms Sibal:** I think that's an excellent point you've raised, Mr Johnson. The problem here, as I pointed out, is that no tenant is going to deny entry if he or she has a problem with the conditions. If the municipality enters the apartment and finds there are major safety problems and hazards, then yes, it must take action.

The problem we are concerned with is that if they find out that there are minor infractions, and they are infractions, will the municipality react by closing down the unit as opposed to saying, "Okay, here is some time given to the landlord to do the repairs." or will the municipalities do the repairs themselves and recover the cost?

That's what we would like the province and the municipalities to look into, that aspect of it, as opposed to saying, "We want to go in and check whether there's a major or minor infraction, and whatever the infraction is, we're going to close down the unit."

1030

**Mr Derek Fletcher (Guelph):** Thank you for your submission. One thing that was ticking away in my head when I was listening was that you don't have much faith in your city council.

**Ms Sibal:** We don't, sir. In Scarborough, we don't. Our clinic has been involved with the second occupancy steering committee for the last three or four years. We raised this issue of legalizing accessory units when the housing policy came out. The reaction of the council was to muzzle people. They did not want to hear us. They had a study, which Mr Lewinberg was hired to do, and when the study was showing the angle that yes, they should be legalized, they asked the gentleman to resign. The municipality continued to do the study itself. Then it just received the study and didn't do anything about it.

In one particular ward, ward 5, the councillor took courage to say that he would like the accessory units legalized. The council did absolutely everything to see that nothing happened, and then of course the province came up with Bill 90 and the politics of the whole situation changed. It's become a turf war. The levels of government are fighting turf wars. They're not looking at the people's needs. The people have become a pawn here.



**Mr Fletcher:** When you say a turf war, whose turf war is it? It's the municipality's turf war, not the province's.

**Ms Sibal:** Right. The municipalities are saying that the province is taking away power from them.

**Mr Fletcher:** We know what the municipalities are saying. They've said nothing for a long time.

**The Chair:** Thank you very much for appearing before us this morning. The clause-by-clause examination of this bill will commence March 6.

#### SOCIETY OF ST VINCENT DE PAUL

**The Chair:** The next presentation this morning is from the Society of St Vincent de Paul.

**Mr Joseph Taylor:** Thank you for entertaining our deputation this morning.

**The Chair:** For your information, you have 30 minutes allocated by the committee. You may use it as you wish. You should begin by introducing each of the people at the table.

**Mr Taylor:** Just a point of clarification: Do we have 15 minutes for the deputation and 15 minutes for questions, 30 in total?

**The Chair:** You have 30 minutes to use as you wish, although the members appreciate some time to discuss your brief with you.

**Mr Taylor:** John McElhinney is the director of VincenPaul Community Homes, which is the network of residential programs in the city of Toronto for men and women recovering from alcohol and drug addiction. Michael Legget is a resident in one of these homes, and Barry Brooks is a past resident in one of these homes. I'm going to address the committee first and then I'm going to turn it over to Michael.

The Society of St Vincent de Paul, Toronto Central Council, is a charitable, non-profit association of Catholic lay people whose mission is to participate in direct service to those in need. Founded in 1850 and incorporated in 1875, there are now over 1,200 members of the Society of St Vincent de Paul in the greater Toronto area.

The traditional work of the society is to provide emergency assistance for food, clothing and shelter through visitation of people in need. In 1993 there were approximately 70,000 such visitations in the greater Toronto area which distributed about \$750,000 in emergency aid.

However, the mandate of the society acknowledges that no form of charity is foreign to us and indeed recognizes that ultimately there is no charity without justice.

In this spirit, the society operates a number of special works that seek to redress the fundamental situation that brings people to seek assistance from a charity. One principal form of this work is the provision of housing.

Initiated in 1978 with the development of a transitional home for men recovering from alcohol addiction, our housing now consists of 15 separate residential programs with a total of 142 residents who are now housed by the society.

Presently under construction is a 164-unit affordable housing complex in East York to be owned and operated by the society. This is in recognition of the need to

provide affordable housing, and of course most of the units in this building are available on a rent-geared-to-income basis.

The Society of St Vincent de Paul is in favour of having the Landlord and Tenant Act apply in all situations where feasible. Examples are basement apartments presently not covered by legislation. Our visitation of many people who have been poorly housed without right of recourse to the law was a main impetus in our decision to provide affordable housing on a rent-geared-to-income basis. We believe safe and secure housing is a right of all citizens of Ontario.

However, we do believe that Bill 120, the Residents' Rights Act, as presently proposed is problematic in its extension to residents of care homes. It threatens the ability of a non-profit charity to provide a safe and secure environment. While it is an admirable objective to extend coverage of the Landlord and Tenant Act to residents of special-needs housing, the end result could very much be to make this housing unviable or so change its character as to make it unable to fulfil its mandate.

In our opinion, a majority, though not all, of people present themselves to live in special-needs housing because at that moment in time their lives are unmanageable without support. Housing is a critical need for everyone, but for those in need of special housing it is not the only need and in many cases is not the most pressing need. Examples abound in our experience where individuals, especially those recovering from addiction problems, were in possession of adequate housing but were unable to maintain it due to loss of income, critical supportive relationships and self-esteem.

Illustrative of this would be the example of a resident who lives in one of our homes for recovering alcoholics or addicts. All residents presently sign an agreement accepting as a condition of residency that they abstain from alcohol and non-prescriptive drug use. Early in our history of providing homes for people with addiction problems we found that abstention from alcohol or drug use was an absolutely necessary condition for providing a therapeutic environment. To allow someone living in a community of recovering alcoholics the right to use alcohol threatens the mental and physical health of every resident living in this community.

This really is not an exaggeration. Alcohol is directly implicated in 10% of the deaths in Ontario and indirectly implicated in about 30%.

Another example of importance is the issue of a resident who is abusive verbally or physically to another resident. Within the context of shared accommodation, in order to ensure the safety of residents, this issue must be dealt with expeditiously. To engage in a lengthy legal process to resolve this problem would create a climate of fear and uncertainty in the home. This would be particularly true in instances where men and women share accommodation.

In our experience, residency in a therapeutic transitional home must be of considerable duration. Residents often have to undertake a reconfiguration of attitudes and values, and learn new responses to life situations as well as learn new life skills. We believe this process is best



accomplished through seeing these responses and behaviours modelled by others while being immersed in a supportive, familylike atmosphere. In summary, what is learned is caught as much as taught, and this process might take one to two years.

The enactment of Bill 120 would have the effect of making an individual's rights in a transitional home supersede those of the therapeutic community in which he or she lives. I believe this contravenes the essence of why we form therapeutic communities; that is, to strengthen an individual through the milieu of a strong community sharing common goals.

1040

Our conclusions: The proposed amendments to the legislation will make it extremely difficult for many non-profit agencies to continue to provide housing for special-needs residents. In particular, the clause which limits the length of stay to six months in a therapeutic home in order to qualify for exemption from the legislation is arbitrary. In many instances, a stay of two years is necessary to resolve underlying reasons that bring a person to require supportive housing. In addition, because the average length of stay may vary, it may be difficult to determine if an organization is subject to the act. It may also pressure an organization to discharge a resident prematurely in order to achieve this exemption.

The clause requiring a person in a therapeutic home to maintain a principal residence is also problematic. The majority of people in need of special-needs housing have been unable to acquire or maintain accommodation on their own and are seeking such housing as a last resort. The non-profit agencies providing special-needs housing are serving some of the most difficult to house people in the province. Any legislation which hampers the ability to provide this service could have the unintended effect of abetting the loss of this housing.

Accordingly, we believe it is unreasonable to require an organization that's providing special-needs housing to comply with the Landlord and Tenant Act. This is legislation which is designed to deal with ordinary circumstances where people are contracting for the specific use of housing which is meant to be of permanent character.

In circumstances where the intention of our services is the provision of housing, such as an apartment complex we have under development, then this activity must be regulated by the Landlord and Tenant Act. However, legislation must distinguish situations where the care giver is primarily providing a therapeutic service that happens to involve a residential component. We believe the situation of a care provider providing special-needs housing is substantially different from that of an organization whose mandate is to provide housing. As such, under the law, special-needs housing should be treated differently from the regular housing provider.

In the event that organizations providing special-needs housing are to be subject to the Landlord and Tenant Act, then distinctions should be made between these organizations and landlords, which are the typical subjects of regulations contained in part IV of the act.

We are suggesting that it would be appropriate to

create a part V of the Landlord and Tenant Act. This would govern care givers providing special-needs housing on a not-for-profit basis. Such organizations could qualify if they received funding through government or government agencies or operated a program approved of by the Ministry of Housing.

A major purpose of part V would be to modify part IV of the Landlord and Tenant Act to reflect the circumstances of the care providers. One such modification would be to determine under what circumstances care providers would be able to restrict certain individuals from entering the premises. In light of our work, we believe it is essential that we are entitled to prohibit entry to individuals who have violated certain cardinal rules. These rules could be subject to appraisal by the Ministry of Housing or an appropriate government ministry. In addition, we require a right, in certain limited circumstances, to relocate an individual from one unit to another after giving appropriate notice.

Apart from the ability to limit access to the premises, part V of the Landlord and Tenant Act could legislate an abbreviated eviction procedure or fast-track process, as recommended by Dr Lightman. Section 114 of the Landlord and Tenant Act could serve as a useful basis for creating the fast-track procedure. It would be possible for a landlord providing special-needs housing to file a notice of termination of tenancy with the court and direct the issuance of a writ of possession on an ex parte basis without notice to the tenant. This right is available in circumstances where the tenant has given notice of termination or has entered into an agreement to terminate.

Although the order is issued without notice, the order must be served on the tenant and the tenant would have four days to dispute the notice. If the tenant does nothing, then the landlord is entitled to enforce writ of possession. We believe this approach is more practical than the one suggested by Dr Lightman. His approach would require the securing of an interim order to temporarily remove residents from the premises. This may be as lengthy and onerous as it would be to secure a final order and writ of possession.

Finally, we believe strongly that if agencies providing special-needs housing are to be subject to the Landlord and Tenant Act, it is essential that grounds for termination be determined in the legislation. This act must entitle the care provider to terminate a tenancy agreement in circumstances where the resident is in serious non-compliance with requirements of the program.

I have some specific recommendations:

(1) That for the purposes of this legislation, the section requiring a principal residence for the majority of residents be eliminated;

(2) That section 1, stipulating that the average length of stay of occupants does not exceed six months, be deleted. This is an arbitrary time line and will be difficult to monitor;

(3) That the ability to abridge the time limitation in section 1 be withdrawn;

(4) That separate grounds for termination under the Landlord and Tenant Act be established for persons



residing in a home for rehabilitative purposes. These grounds would be approved of by the Ministry of Housing;

(5) That an abbreviated eviction process or fast track be established that would extend to all providers of non-profit housing, to ensure safety of other residents in the community.

**Mr Michael Legget:** My name's Mike Legget. I've been a resident of VincenPaul Community Homes for 18 months. I've been clean and sober for coming up to 21 months. I'd like to say how important these homes have been to me in my recovery. I seriously doubt that without the safe environment I've been living in these last 18 months—I don't know whether I'd be clean and sober today.

I'd just like to talk about how important it is for us in our homes that we have a rule that people cannot use drugs or alcohol. I can't stress the importance of our being allowed to discharge somebody who is using, because it would threaten all of us. It's really important. I don't know how to put it properly.

While I've been getting clean and sober I had to leave all my old habits, people, places, things. I had to leave it all behind. Just for myself, there's no way I would have been able to stay straight coming down and seeing somebody using cocaine at the kitchen table. Absolutely not. It would threaten everybody in the house.

It's the same with violence. That's one of our two major rules: violence or threats of violence. People are having a hard enough time working on their recovery, trying to get their life on track without being intimidated or threatened. That's street behaviour which just wouldn't work in our environment.

That's really all I have to say.

**Mr David Johnson:** I would like to thank you for a very thoughtful, excellent and commonsense presentation today. That testimony I think speaks for the excellent work St Vincent de Paul is accomplishing.

This is a message we've heard from other groups as well. I think it's almost time to call time out and ask the parliamentary assistant, I guess in his next period, to indicate that we really have to address this problem because we've heard it over and over again.

Joe, you have put forward your recommendations on the basis that because of the therapeutic nature—other groups have called it rehabilitation nature—there should be different sets of rules, that your primary purpose is therapeutic, not accommodation.

**Mr Taylor:** That's right.

**Mr David Johnson:** That's the key we have to listen to here. I wonder, rather than dealing with the time and that sort of thing, if it wouldn't be better just to have a blanket exemption from the Landlord and Tenant Act for groups such as yours.

**Mr Taylor:** That's our first premise, that they should be exempted from the Landlord and Tenant Act. However, if they are going to be subject, then there has to be provision for recognizing the unique character of special-needs housing. I believe that this legislation, if it was

enacted into law as it is presently, would—it's not too strong a word to say—destroy our present needs housing.

Only in our homes for recovery, alcoholic and drug addicts, we have almost 50 people there alone. I think all these people would end up on the street. They themselves took up a petition and the majority of these people have signed a petition stating that they don't want to be covered by the Landlord and Tenant Act. As a matter of fact, the only people who didn't sign it were people we weren't able to reach within the time. Absolutely no one refused to sign that petition.

**Mr David Johnson:** I guess the problem is, if one of those people slips and brings drugs or alcohol back into that setting, where the others are trying to come clean, what kind of an impact would it have on the others? By the Landlord and Tenant Act you couldn't—

**Mr Taylor:** Can't do much. It's possible, for illegal drug use, to enter into a lengthy process to get somebody evicted, but my legal advice is that may take two to three months right now. Also, under the Landlord and Tenant Act, nowhere is it an offence to drink alcohol. They could walk in, to the kitchen table, with a case of beer, proceed to sit down and drink it, and we'd have no right to deal with that situation.

1050

**Mr David Johnson:** Certainly there has to be some kind of amendment to allow you to carry on. We have to deal with it.

One other interesting thing that I don't think other groups have mentioned is that you need restrictions on individuals entering the premises. This is on page 8 of your deputation. Were you talking about residents or were you talking about visitors, outsiders?

**Mr Taylor:** Primarily residents, but there are situations that could also involve people not living in a residence. We do on occasion have residents who have left who have slipped in their sobriety and may want to come back to the premises under the influence of alcohol and drugs. That situation is just as intolerable as a resident coming in. We have to be able to prohibit them entry.

**Mr Stephen Owens (Scarborough Centre):** Thank you for your presentation. I have a couple of questions with respect to your representation that this legislation will destroy your ability to continue to operate. I don't think that's true and I don't think you can demonstrate that in a reasonable manner.

If you're in the business of empowering people, which is what I understand you to be saying to me with respect to assisting people in ridding themselves of their substance abuse problems, part of that empowerment process is giving them rights and I would believe that some level of security of tenure is part of those rights. You can't be concerned about your own personal rehabilitation if you're concerned about whether or not you're going to have a place to live. Why would giving people these rights as part of your empowerment process be problematic for you?

**Mr Taylor:** Initially, when we began providing housing of this nature, we did not require that people abstain from alcohol and drugs. It quickly turned into a



situation that was almost akin to a booze can where everybody was using alcohol and drugs on the premises. There was no rehabilitative action going on. Indeed, it is our premise that for a person who has a serious, life-threatening condition, which alcoholism is—

**Mr Owens:** There's no disagreement about that. That's not my point, though.

**Mr Taylor:** —that condition is more important than their ability to live in a situation, and that if they're allowed to continue to use alcohol and drugs, they not only threaten themselves but they threaten the sobriety, the mental and physical health of the other residents. We have a resident right here who's willing to testify to that.

**Mr Owens:** I don't think the issue is the use of drugs and alcohol. That's not my point.

**The Chair:** Allow them to respond, Mr Owens.

**Mr Barry Brooks:** My name is Barry Brooks. I'm a recovering alcoholic. I was sober four years this January. I attribute a great, great deal of my recovery to the homes in the society.

In answer to your question, sir, when I was in the home in the beginning, in the early part of my recovery—horrible paranoia, 29 years of alcohol battering away at me—there was very little left. Had that deterrent not been there, the stipulation that I not pick up a drink, I can assure you that there were days when I doubt I would have made it without that little extra deterrent that, "Hey, if I pick one up, I'm gone." The only place I had to go was the streets and I was terrified of that.

While I understand your idea that we need a safe place to be and that we need some idea of how long we can be there, we do have that. We have a year to be there to get ourselves pulled together.

What I'm saying is that if you had taken that deterrent away from me, that restriction, the odds are I would not be here today and I very likely would be dead.

**Mr Owens:** I appreciate that.

**Mr John McElhinney:** My name's John McElhinney. I've actually had about 13 years' sobriety now. I came through the homes as a resident and I'm presently director.

To add to what Barry says about seeing drugs in the home or using drugs, especially with the crack addict or the person using IV, certain things are triggers. Even a jar of vitamins on the top of a fridge is a trigger. Residents are encouraged to keep such things away. Never mind the actual alcohol or drug. A lot of items are triggering effects and we have to keep these away because the resident is so subject to any reaction. Furthermore, we've had cases where unfortunately one person started drinking, got the weak brother or the weak sister in the home to join them, and eventually four people had to leave the home.

**Mr Owens:** In terms of the drugs there are already provisions, however, within the Landlord and Tenant Act that are available as remedies to the landlord now with respect to illegal acts and abbreviated evictions. In terms of policies with respect to usage of alcohol, this is a policy that you require as part of St Vincent de Paul. I

don't have a difficulty with that. What I'm suggesting to you is that in terms of yourselves and the other brothers and sisters who are involved in this program, they still have to have the feeling, a security of tenure and a means to a remedy—this is not just about St Vincent de Paul; this is a problem across the province—in terms of how they have their rights defended.

My question to you is, in terms of the empowerment process that has allowed you to come here today as a functioning human being, why is giving residents, clients like yourself, rights as tenants for security of tenure problematic and how is that going to destroy your program?

**Mr Brooks:** Because, sir, as I said, there were days when had that restriction not been there, the chances are I would have picked up a drink and I don't have another recovery in me. It's just physically not there. Yes, it's nice to know you can stay somewhere and have a place. I was on a basis of being there for one year to get myself pulled together. I knew that, as long as I didn't pick up that drink. In the beginning it is extremely difficult, after 29 years of dependency, not to pick up that drink when little daily crises that all of you I'm sure can handle come up. As I say, in protecting me you could be killing me by taking that away. In fact, I feel you would be in many cases.

**Mr Legget:** I'm not worried about having security of tenure. I agreed to the rules when I moved into the house and I'm not worried about having to leave. I'm obeying the rules to the best of my ability and I know I've got a safe place to live until my time is finished.

**Mr Owens:** Why don't we respond to the people who have been tossed out?

**Mr Joseph Cordiano (Lawrence):** Gentlemen, if I may say this, I'm sorry, you're wrong. The government knows better. It's obvious to me now that the minister knows best, the government knows best and you're wrong. All the groups that have come before us who have these grave concerns, as you've expressed today, haven't got a clue, because the government is completely ignoring what is becoming overwhelming evidence that there's a real problem with this bill.

You're out to destroy these groups that are providing the housing that's needed. We're hearing from tenants in those groups. It's overwhelming evidence, gentlemen. Wake up. Smell the coffee. I tell you it is unbelievable.

*Interjections.*

**The Chair:** One member at a time.

**Mr Cordiano:** Do you mind? I have the floor. Mr Chairman, do I have the floor?

**The Chair:** Yes, Mr Cordiano.

**Mr Cordiano:** Thank you. Why don't you just listen? You might learn something.

**The Chair:** Mr Cordiano, through the Chair.

**Mr Cordiano:** You may learn something if you listen. Unclog those ears of yours.

Gentlemen, what you've told us today is very important and it's a continuation of what we're hearing from the various groups that are out there providing the kind of service you're providing that's very crucial to our



communities. One of the questions I have is with respect to fast-track eviction that is really coming up again and again. You suggest that we amend this bill to deal with section 114 of the Landlord and Tenant Act. But you don't believe Dr Lightman's approach would be satisfactory because it would just be another delay in the process.

**Mr Taylor:** I have had legal counsel on the original eviction process, and even three weeks is not fast-track in our situation.

1100

**Mr Cordiano:** Let me just say this: I think it really is coming down to this question, that where you have a centre such as yours providing rehabilitative services, notwithstanding that they may be therapeutic or not, because there are other centres that may not be providing that kind of treatment but do provide some kind of supportive housing in a rehabilitative kind of setting. It may be difficult to define what a rehabilitative centre is. That may be a difficult problem that's just practically impossible to overcome.

But it seems to me that we can draw the line that where a centre is providing rehabilitative services, it be excluded from the Landlord and Tenant Act. Perhaps the only way to accomplish this, as has been suggested by some other groups, is to set the time line further, that six months is not adequate and that at least 18 months be where we draw the line. You're suggesting today that 18 months may be too short.

**Mr Taylor:** I even believe that having a time line is problematic in and of itself. How do you define "average length of occupancy"? If our average length of occupancy this month is five months and four days, we're entitled to evict, and then if three months from now it rises to six months and four days, we're not entitled to evict. Who's to make that decision as to when that happens?

I believe that unfortunately it would give rise to situations, not that I'm recommending this, where agencies would be discharging people prematurely in order to comply with the time line.

**Mr Cordiano:** If there were some mechanism for extending that, which would be a process whereby someone applied to do that, where the agency itself, along with the tenant, agreed that there should be a further period, that there would be an extension, you would go through a certain appeal process or you would apply for an extension. You see, the problem is that if we try to define what a rehabilitation centre is, we may find that it's very difficult, as I'm beginning to discover. There may be many centres that would apply for that kind of exemption. Therefore we come down to a practical problem: How do we define that? I think this is what we're struggling with. At least I'm struggling with that kind of definition.

**Mr Taylor:** I believe that under this present legislation there is no definition of "rehabilitative centre" and it's a very grey area.

**Mr Cordiano:** Right, and that's the point I'm trying to make.

**Mr Taylor:** Either that has to be clearly defined—at

any rate, our first premise is that special-needs housing is not in the business of providing housing. They're in the business of providing a therapeutic service that has a residential component and it's best left exempt from the act.

**The Chair:** Thank you, gentlemen, for appearing before us today. Your deputation has been helpful.

#### SCARBOROUGH HOUSING HELP CENTRE

**The Chair:** The next presentation is from the Scarborough Housing Help Centre, Ms Andreasen. Good morning.

**Ms Catherine Andreasen:** I want to say first off that we're expecting one more tenant to show up. I've never met the gentleman, so I don't know what he looks like. Maybe someone could watch for him.

I'm Catherine Andreasen, executive director at Scarborough Housing Help Centre. On my right is Jose Valle, one of the housing counsellors. On my left is a tenant who was generous enough to give her time to come and speak this morning, who does not wish to be identified by name.

Good morning, members of the standing committee on the residents rights' bill, also known as Bill 120. We are pleased to be here this morning and be given the opportunity to present to you some of what we experience at the Scarborough Housing Help Centre.

Today we will be giving you a brief description of what we do. We will present some statistics that will give you an overview of the kinds of housing problems we see in Scarborough. More importantly, however, we have brought you the written statements of two Scarborough landlords and two basement tenants who will tell you their stories. Based on what we regularly see and work with, we strongly support the passing of Bill 120 into law. We believe that this is in the best interests of both landlords and tenants and we'll tell you why this morning.

Formerly known as Scarborough Housing Assistance Placement and Education for Singles, the agency has been operating in Scarborough since 1985. We offer many services to landlords and tenants and deliver those services in nine languages. However, of most importance to this committee this morning are the two housing registries we operate and the landlord-tenant mediation services we provide.

Our home sharing registry matches seekers of shared accommodation with providers of shared accommodation. The other registry, and more significant to this committee, is a self-contained units registry through which we match prospective tenants and landlords. With over 1,000 calls a month, we are in a position to tell you a little bit about the reality of the housing situation in Scarborough.

We now draw your attention to the statistics we've compiled for this committee. You have an attached package there. On page 1, you'll note that we currently have 147 self-contained units on our registry but we have 738 parties seeking apartments now. Out of that client base, you'll see the demographic breakdown, with 69% of our clients on social assistance, 30% are single-parent families, 5% are leaving abusive situations and 3% are elderly.



On page 2, you'll note that 30% of the apartments on our registry are basements. However, we think many more are out there and the landlords don't feel comfortable registering with us because we're a public organization and they feel threatened by that.

On pages 3 to 5, you'll see a breakdown of basement apartments of varying sizes compared to income on social assistance and the basic amount people are given for shelter. You'll note that a basement apartment of any size is between \$150 and \$210 cheaper a month than any of its counterparts on all of the sizes of apartments.

The last three bar graphs represent what welfare allows all of the family sizes. You will note that whenever your rent exceeds what you're given from welfare, your food budget has to pay the rest of your rent. We're talking about people relying more on food banks etc.

The numbers speak for themselves but they are only numbers. We wanted you to hear from the people. First, however, we need to point out that both landlords and tenants were intimidated by the idea of coming forward like this. Many said no because they felt their income or their place of residence could be jeopardized by speaking up. The tenants before you and the landlords who submitted statements, therefore, do not wish to be identified and I will only identify them demographically.

I'll read the landlords' statements first. The first landlord is a male newcomer, coming to Canada in 1986. He's 45 years old, he supports a family of five and this is what he had to say:

"As a landlord in Scarborough, I fully support the legality of renting basement apartments for residential purposes. Such legislation will in my opinion:

"(1) Help the tenants, especially the low-income class, to spend less on rent in comparison to what they are spending now for apartment buildings.

"(2) Help widen the rent market and make it easier for tenants to find a residence closer to where they work.

"(3) Help the landlords to have extra income which will enable them to renovate their homes, including the basements.

"(4) Help both parties, tenants and landlords, understand their rights and obligations under such legislation."

On a personal basis he says:

"(1) I need to rent my basement out in order to keep my home.

"(2) The man I rent to has a psychiatric disability, cannot afford a main-floor apartment and sometimes relies on my family and myself for social support."

The other landlord who made a statement is a single parent, female, leading a family of three, and she said:

"I am a property owner in Scarborough and have rented my basement to survive this difficult time when there are cuts in salary and I'm scared to lose my house. If I don't rent it I will not be able to pay the mortgage and college fee for my son who does not qualify for OSAP.

"To feed the family and keep them alive, I had to rent my basement although it means less space for my family but I have to make ends meet. I strongly urge the con-

cerned committee to look into the bylaw to legalize the basement for dwelling.

"Many thanks."

1110

Now I will introduce maybe two tenants, if the other one has joined us, but I will allow the second tenant to speak now and hopefully the other one will show up before I'm finished.

**Witness:** What I have done here, I've just put it in the form of an essay, very brief, so I can let you know what my views are as a tenant with regard to Bill 120.

The proposed Bill 120 has received mixed views. It is needed as a result of housing shortages, primarily for single families, one-bedroom basement units, the two- and three-bedroom units or apartments, mostly for female flat-sharers and single parents.

The opposing side of Bill 120: Their chief concern is the extension of the stigma of basement apartments over the years. The home owners are concerned due to the stigma that a basement apartment for rent will mainly attract undesirables, meaning people who have had problems, as well as irresponsible young people, adult students, the unemployed, drug addicts, promiscuous individuals, male or female, the mentally ill.

The non-compliance of the Landlord and Tenant Act: Many people in terms of basement housing or those people who rent rooms think they're exempt and they think that means they can do as they wish, not realizing that they're still covered under common law. Due to the exemption, when you have problems such as tenants who probably don't pay their rent, or maybe they do, and they stand the risk of being evicted because they're not covered under the act, then you have a bit of a problem. Who would mediate? If they decide to mediate, they know that their tenancy's at risk. They have to call the health department, the planning department or the Ontario Provincial Police, which creates a problem that lots of home owners don't like.

The slum landlords, those who prefer short-term tenants, are for quick rent increases, because the tenant doesn't usually always know what the previous rent was, especially for basement apartments that are supposedly illegal, and they're also at risk for illegal evictions.

You find a lot of the tenants who live in these basement apartments also have the problem of what is considered illegal entry, which is really under break and enter, because some landlords, not all but some, do enter the tenants' apartments illegally when they know they should definitely give you a 24-hour notice before entering, and the tenant sometimes feels that he or she hasn't an option. What do we do when the landlord comes in? If I should take up the issue, what do I do? Under the act, neither the landlord or the tenant can change the locks.

There are many individuals who grow up in their own home, their own family property. They have never lived on a lower level, let alone a basement, but they do rent basement apartments today. Sometimes one hasn't an option because of the income, as I'm a student, and things like that.



I ask the government most earnestly and sincerely to stand up now and be counted. Do show that you care about Canadians and residents. Do not permit tenant abuse, these violations. Do not leave hurting tenants to become the abusive landlords of tomorrow, because this is what happens. I will not likely do that. I've also spoken to David Cooke when he was in the Ministry of Housing. When I become a landlord I won't take it out on others, but there are those who have suffered and who have had a history of renting to families who had histories of problems and they in turn become abusive landlords. It's a sort of repetitive thing, and if they're not covered under the act, they're exempt, so who cares? They don't know what else. The situation should be taken to court.

The rooms for rent in houses also, and apartments—you see, there are two main areas that are at risk because you're not considered a tenant; you are considered an occupant under common law. Once you exchange money for accommodation you are, in fact, a tenant because that person has not refused the funds he or she has received. If you accept my money as accommodation payment, I am not considered a tenant because the accommodation you are providing is illegal, but I still have my rights and this is where Bill 120 is very important.

Most at risk are single females like myself without family, blacks, non-whites, mentally and physically handicapped—male or female—the elderly, first-time teenage tenants—18 years, or 16 to 21—and the residents, because they seem to think, some landlords, that people within this category don't know their rights, they aren't aware of what's happening.

I'd ask you here today to think of tenants, think of landlords. I believe it needs to be balanced. Don't think tenants' rights are not landlords' rights. Everyone deserves their rights, as the charter specifies. Don't violate one's rights to accommodate the next. Don't allow landlords to think that we're alone, unaware and vulnerable. Thank you. That is my personal view.

I do have something else here, if time permits me, after other people have spoken.

**The Chair:** There are 13 minutes left in the presentation. You can use that as you wish. Otherwise, I will divide the time among the caucuses. So, we're ready for questions?

**Ms Andreassen:** No, I'm not finished yet. I'll just skim over what the other tenant would have said, had he shown up. He's a single father of two children, aged 35. You can see it in my notes. He's on social assistance, he lives in a basement, that's all he can afford, and he would have said today, had he come, that it's his physical safety and that of his children that he is really concerned about living in a basement.

As you will have noted, the groups most affected by the fact that basement apartments are illegal in Scarborough are also the most vulnerable and disenfranchised in our society. Aside from the obvious issues of safety and security of home for tenants—for example, rights of tenants—and secure income supplement for landlords, we wish to underscore a few other very important variables at play.

Specifically, newcomers experience added problems when approaching the housing market. For example, apartment buildings often want a credit check or rental history from a prospective tenant. This usually cannot be furnished by newcomers. Management of buildings also demand the last month's rent, something most of our clients do not have. In the case of a private landlord, our staff can usually go out and mediate some kind of an agreement that is satisfactory for both parties, but we can never do that with the management of high-rise buildings, or low-rise or otherwise.

When apartments are rented in houses, there is sometimes an exchange of services which, down the line, often lessens the demands on social programs thus lowering public spending. For example, the isolated elderly have a tenant to shovel their snow, go to the store, or just be their friend. Single parents will babysit or access babysitting without an exchange of money. Newcomers and most landlord families also benefit from a linguistic and cultural exchange. The newcomer often learns English faster; likewise the landlord and family may become more open to learning about other cultural experiences. In the case of the psychiatrically disabled, as in one of our landlord's statements, just knowing someone is close by can mean all the difference between hospitalization and independent living. All of these exchanges are conducive to helping people live fuller, happier lives.

Like it or not, we have a housing problem. Like it or not, there is not enough safe, secure and affordable housing available to the vulnerable people who desperately need it. If there wasn't a problem, it is most likely that basement apartments would not exist, yet we all know that they do.

In summary, we believe that the passing of Bill 120 will support inexpensive, environmentally friendly housing intensification, enhance the physical, social and psychological health of tenants and landlords and save the taxpayers money.

Finally, I'd like to express my thanks on behalf of the Scarborough Housing Help Centre and many landlords and tenants in Scarborough. We appreciate both the work being done by the committee and the opportunity to publicly express our views about Bill 120.

1120

**The Chair:** Thank you. I have Mr Fletcher, Mr Owens, Mr Mills and Mr Winninger.

**Mr Fletcher:** I defer to Mr Owens.

**Mr Owens:** I appreciate your presentation. I think that what opponents of this legislation ask people like yourselves and ourselves and the government to do is to suspend our disbelief in terms of what goes on out there in the world. In terms of Scarborough and my riding of Scarborough Centre, I'm asked to not understand that there's somewhere between 10,000 and, as the Scarborough fire department said, up to 20,000 accessory apartments.

So my question to you is, do we just kind of shrug our shoulders and say it doesn't exist and let the people live in substandard housing and, as your copresenter said, have no rights with respect to health and safety and any



kind of means to a remedy if those illusory rights that people seem to think that they have are violated? Is that what the opponents of this bill want us to do—just ignore the problem?

**Ms Andreasen:** I'm hoping they don't, but that may be safe to say. Obviously, it's out there. We've given you information right from our registries. We've also described to you how inaccessible housing is to our clients. So for two reasons we think that this is an answer to the problem.

**Mr Owens:** You provide an excellent service to the community, as my office utilizes your services on a regular basis with respect to housing for people. In terms of the kinds of people we see mutually, they're people who have income issues or are in the process of family law issues and all kinds of things. We need to provide a safe level of housing for them.

**Ms Andreasen:** Absolutely.

**Mr Owens:** I appreciate your representation that this is not only good for tenants, this is also good for landlords as well, because it also provides landlords with, again, a means to remedy if in fact there is a tenant issue that he or she needs to deal with. So I appreciate your support.

**Mr Gordon Mills (Durham East):** Thank you for coming here this morning. I really appreciated some of the things you've told us. It took me back. As you can tell by my accent, I'm an immigrant too. I came to Canada and I lived in three basement apartments. We were paying rent in those days—and this will age me a bit—of \$45 a month when people were paying \$80 a month for posh places, you see. Through that transaction of time, we were able to get on our feet. But the opposition keeps on. They seem to want to not legislate apartments, but where apartments should be. It's all very well to have apartments, "But not in my backyard."

**Ms Andreasen:** Exactly.

**Mr Mills:** "Let's put them near the railway tracks."

I can remember some of the fights that I had. Like your fellow who didn't turn up, we were very concerned—I had two young children at the time—about what we would do in case of a fire. I remember we got a sledgehammer, we got a ladder and made plans that if anything happened, this is what we'd do. I think that when we hear people talk, most commonsense people will make those sort of contingency plans on their own, without their having to be told that, without Big Brother looking after them.

But anyway, I could go on. But thank you, you took me back. I hope that the opposition members, instead of criticizing what we're trying to do in Bill 120, realize—and I can speak first hand—that it gave me the opportunity to get my start in Canada living in basement apartments. I know, when we moved to a house, my wife said, "Isn't it nice that we're not looking at people's ankles any more?"

**Mr Cordiano:** Let me make one thing clear for the government members: We are not opposed to accessory apartments.

**Mr Owens:** "We have taken a position."

**Mr Cordiano:** What we are concerned about, however—

**Mr Owens:** The "but" syndrome.

**Mr Cordiano:** —and that was our position for some time, long before you were born—

**Mr Mills:** Not when I was born.

**Mr Cordiano:** What concerns us in particular is, the fact that the government has waved its wand and said that all accessory apartments will be legal as of right to exist will not make these accessory apartments in and of themselves safe places to live. Many units out there, we know now, are below the standard, will have to be brought up to standard. I was just interested in the example you gave us of the landlord who makes the case that he needs this income to pay his mortgage. That's justifiable; no one's going to argue with that. That's a great thing. It's creating economic activity and it's creating another place for someone to live.

But I just wonder if that landlord was in possession of a unit that, even after Bill 120, would be considered illegal because it doesn't meet the fire code, safety code, building code requirements. We've been told estimates that it could cost anywhere between \$5,000 and \$10,000 to bring most of these units up to standard. I just wonder where a landlord who's struggling to make mortgage payments is going to get that kind of money to pay for those upgrades, because if they don't, the prospect may be that the landlord continues to rent out an illegal, substandard unit and that place will continue to be an unsafe place for the tenants to live in.

Are you not concerned about that? As your concern flows from the safety and security of tenants and the rights of tenants, surely you must be concerned about the plight of those tenants who will still live in unsafe basement apartments or accessory apartments.

**Ms Andreasen:** You've asked me several questions.

**Mr Cordiano:** I'm sorry; there's not a lot of time.

**Ms Andreasen:** I have a question for you. The \$5,000 to \$10,000 figure to renovate a basement and make it safe, is that based on a study?

**Mr Cordiano:** We've been told by various municipal officials that this is approximately—the fire chief—

**Mr Owens:** So it must be true.

**Mr Cordiano:** Sorry, the fire chief who was in here from Mississauga told us that. He gave us that estimate. There were other people who had made that estimate. Quite frankly, it's easy to determine that. I don't think that's a big mystery.

**Mr Grandmaître:** The rec room will cost you that.

**Ms Andreasen:** I personally wouldn't agree with that figure based on what I've seen. I think it's high.

**Mr Cordiano:** Would you provide us with anything that would resemble a cost estimate?

**Ms Andreasen:** No, I have no studies. It's not part of my mandate to do things like that. It's just based on what I've seen, okay?

But to answer your questions about our concerns for the safety of tenants, we believe the passing of this bill



will bring into law the possibility of more safety for tenants just because it will be within the law. When there's a complaint made, there will be a law in place to enforce that landlord to do that.

**Mr Cordiano:** I doubt it.

**Ms Andreasen:** And there isn't now.

**Mr David Johnson:** It could be a mixed bag, but just following up on Mr Cordiano's question, for example, the draft fire regulations would require that each dwelling unit be served by at least one means of escape consisting of a door that serves only that dwelling unit. Now, you may find a number of the basement apartments wouldn't meet that, for example, and that there would have to be construction to change the entrance and the exits.

It also requires, most understandably, that there be fire-resistant walls, which would be drywall primarily. Some of the basement apartments would just have wood veneer or something there right now. Although the draft fire regulations I don't think specify this, many of the fire chiefs have said that the basement apartment should be water-sprinkled because of the special condition, being below grade and the problem of exiting. Water sprinkling would add, I've heard, \$1,500 to \$3,000 or thereabouts.

I don't know that we want to specify precisely what it would be, but there's no question that in some cases, if basement apartments are legalized and if the fire department gets in—I still think that the fire department won't get into many of these because the tenants will not come forward; that's been my experience, but if they do get in and order a number of these changes in compliance, there will be a cost.

I'm looking at your single-parent mother of three who needs the money. If the income she's getting from that basement apartment is somewhere around five hundred bucks a month and she's faced with a capital expenditure, her choice may actually be to close down the unit.

**Ms Andreasen:** Of course, we would like to see interest-free loans for landlords to do these kinds of things because it's still cheaper than building more buildings which are going to be out of the reach of our clients anyway. To us, to give low-interest loans or something to assist landlords below certain levels of income can resolve that problem.

1130

To speak to the issues that you brought up about construction, if two units share one other entrance, a 30-minute fire door is what's required by the fire department between those units, if they share an exit. It isn't that all landlords would have to put in a totally separate exit if it is a shared. They won't have to go into the cost of putting in a separate entrance, a totally separate entrance, which, I agree with you, would be very costly. I know that drywalling a basement can't be anywhere near \$5,000. I agree with you that a lot of them would probably have veneer on the walls, which isn't considered safe.

**Mr David Johnson:** Just a—

**The Chair:** Mr Johnson, there's another response.

**Witness:** Can I just go on that briefly? This is the other part that I had to put in, because, as I specified

here, my apartment is safe. There's one exit for me. Really there should be two, but it's safe because I can always have an additional exit. I have fire extinguishers, and my lighting, my heating, everything, is according to the building code. But this is my concern: Not all apartments, not all basement apartments, meet that standard, because if there's a fire, an emergency, two families cannot get through that door, no matter how wide it is. There must be two exits. When there's overcrowding, you have breaking in circuits. They have to be constantly using the breaker and you can use it that much. If no one is there, who's to stop a fire from starting from cooking or an electric iron that was left on? You see? These are the things that I am concerned about: the heating, the plumbing, the electrical, the overcrowding. Some landlords have a way of fixing the thermostat.

**Mr David Johnson:** You raise good points.

**Witness:** Bill 120 also has to go in with the rent control, also with the planning department. All of these have to be in full force, not Bill 120 only. It cannot stand up independently.

**The Chair:** Thank you very much for appearing before the committee today.

CATHOLIC CHILDREN'S AID SOCIETY  
OF METROPOLITAN TORONTO

**The Chair:** The next presentation will come from the Catholic Children's Aid Society. Good morning. The committee has allocated one half-hour for your presentation. You can use that time as you wish. You should begin by introducing yourselves and the position within the organization that you hold.

**Mrs Barbara Jamieson:** I'd like to first thank the members of the committee for having us here today.

I'd like to introduce Anne Smith, who is a member of the board of the Catholic Children's Aid Society and the social action committee on housing under that society. I am Barb Jamieson. I am a community worker and I've been working on the housing issue for quite a few years. It's locally based in Scarborough, but today I am speaking on behalf of the society as a whole.

The comments from the Catholic Children's Aid Society, I would like to point out, will be limited to the apartments-in-houses portion of this proposed legislation. We are here to express our strong support for Bill 120.

**Mrs Anne Smith:** The Catholic Children's Aid Society is one of the largest child welfare organizations in North America. We are presently celebrating our centennial year of existence and have been responsible for the protection of children under age 16 within the mandate of the Child and Family Services Act.

Our society has realized, through years of experience in working with families, that for some families their income and housing problems can increase their level of stress and have an adverse impact on their ability to care for their children.

We have five branches in the city of Toronto—Dufferin, High Park, Etobicoke, Riverdale and Central at 26 Maitland Street—and two other branches in the Metro area: North York and Scarborough branches.

The mission statement: "For the love of children." The



Catholic Children's Aid Society, on behalf of the Catholic community, is committed to provide social services that protect children and strengthen family life.

We value human dignity, the courage and integrity to take a stand, partnership and teamwork, cultural, racial and individual differences, and professional excellence.

The society's long-range goals:

(1) To develop services which protect children, strengthen family life, are responsive to the community and are supportive of self-help efforts.

(2) To become more supportive of handicapped clients and our young adults so that they are able to achieve independence in the adult world.

(3) To become a strong advocate for the families and children we service.

At the end of 1993 we served 5,023 families and 1,488 children in care, plus 7,000 children in the community. Our service is used by many single mothers, children in care, low-income youth and families, and children on independent life programs.

Our 1993 statistics indicate at least 32 children came into care because of lack of appropriate housing. Of the families we serve, over 55% are in the private rental market, 26.2% of the families live in single-family dwellings, and 25.2% live in subsidized housing.

**Mrs Jamieson:** In 1991 the Catholic Children's Aid Society and the Metro children's aid society adopted a joint position supporting housing intensification which includes apartments in houses. Present municipal zoning bylaws discriminate against the economically disadvantaged individual and households. Without standards, families and the children of these families are at risk. As stated in the 1990 report by the Advisory Committee on Children's Services titled *Children First*, "All children have fundamental entitlement to necessary health care and treatment, and adequate nutrition and housing." One of this committee's statements of goals is that "Laws that affect children directly or indirectly must be written and amended to express and give force to their entitlements."

The United Nations report on the State of the World's Children 1990 made the case that children should have first call on society's concerns and capacities and that children should be able to depend on that commitment in good times and bad. Children and their families need stability and an environment which is safe and healthy. All tenants in accessory apartments should be entitled to fire, safety and property standards. They should be entitled to rights under the Landlord and Tenant Act.

I would like to tell you of a client's attempt to get repairs done to her basement apartment. This is very recent, and I must tell you it's quite minute compared to a lot of the experiences of other cases that we've had come up at children's aid.

This family resides in a two-bedroom basement apartment. For some time now the family has reported water leakage in the basement. She has been hoping her landlord would repair the broken water pipe which sits under a concrete floor just outside the entrance of her apartment.

To date, the landlord has not responded to her request for quick action to circumvent the water from leaking inside her apartment. If one stands in front of the entrance to the apartment, one is suddenly aware of standing in a three-foot circular puddle. The carpet is now saturated with water. The situation is becoming intolerable and the landlord refuses to respond to her problem. Because of the illegality of her apartment, what recourse does she have? Under the present zoning, landlords do not have to adhere to standards and accept responsibility to provide a safe or healthy environment appropriate for their tenants.

At this point, I have an appendix which I was not going to read, but because of a question that came up with the previous speakers, I am going to take a moment to read it.

The Toronto Star printed an article on January 19 on the throne speech re loans for home renovations. It says:

"In their election platform, the Liberals set aside \$50 million this year and an additional \$50 million next year to upgrade older homes to modern energy, safety and health standards.

"The program will be modelled on the old residential rehabilitation assistance program, which allowed Canadians of low or modest incomes to apply for loans or grants to upgrade homes they own or rent."

There is a little more to that article and I've attached it to your package.

1140

Tenants are often exploited and ignored and dare not complain for fear of reprisals and even eviction. The passing of Bill 120 will help families access secure, appropriate housing in residential neighbourhoods. They will be given the right to exercise their housing rights. We believe renters should not be treated as second-class citizens. Catholic Children's Aid Society believes Bill 120 will rectify one form of zoning discrimination against tenants and guarantee tenants in an apartment in a house the same rights to tenure enjoyed by other tenants in the province.

There is a great need for decent, affordable housing. Accessory apartments are relatively affordable compared to other vacant units. Government-subsidized housing simply cannot meet the need of many of its citizens. The passing of Bill 120 offers more legal housing units on the market, more housing choices and more choice in housing form in a wide variety of neighbourhoods. It gives tenants the choice to live closer to special schools or parks or shopping malls or churches. This may be required by them or maybe even be a desire.

Ontario is expecting a large population growth, and many will settle in the Metro area. A mix of people and housing in communities should be promoted.

Our board has recognized and adopted housing resolutions and advocates for improved housing policies and programs for families, children and youth. I personally have worked on this issue since 1985, when we first appeared before Scarborough council requesting a study be undertaken. I have to tell you, that was an experience in itself. The Catholic Children's Aid Society staff



collaborates with other community services and organizations such as the Second Occupancy Steering Committee on Housing and the Inclusive Neighbourhoods Campaign.

We recognize that poor-quality housing is one cause of family breakdown. A family's housing situation is an important factor for the wellbeing of children. Over 44% of the families we serve have a gross annual income under \$10,000, and 27% with gross annual incomes under \$18,000. Young families, single parents, youth, immigrants and refugees face a most difficult task, which is to acquire appropriate, safe housing. We know the Metro Toronto Housing Authority, the largest provider of subsidized housing in Metro, has a waiting list of over 21,000, and the alternative housing stock for many of the families we serve is in the private rental market.

A fact sheet produced in October 1992 by the Ministry of Municipal Affairs and the Ministry of Housing stated:

"There are approximately 100,000 apartments in houses in Ontario. They exist without a clear, comprehensive process to enforce safety and building standards. The previous governments directed municipalities through the 1989 Land Use Planning for Housing policy statement to eliminate excessive zoning standards to allow apartments in houses in residential areas. Very few municipalities complied with the policy."

We recognize the ongoing concern about parking. However, we note in the Apartments in Houses facts and figures book, again published by the Ministry of Municipal Affairs and the Ministry of Housing:

"People who live in duplexes (which are comparable to houses with an apartment) tend to own fewer cars, on average, than people who live in single detached houses. Ontario survey results indicate that owner-occupied houses have an average of 1.32 cars. While some might expect the number of cars to double if another unit is added, this is not likely to be the case. A comparison of the number of cars in duplexes with both owned and rented units indicates that the average number of cars is 1.76, clearly far less than a doubling of the rate for single detached houses."

On a personal note, let me tell you that I have three children at home, and my problem is not a basement apartment. My problem is having older children, old enough to own a car.

Similarly, a Metro Toronto study found that a one- or two-bedroom converted dwelling unit has fewer cars than a one- or two-bedroom non-converted dwelling unit. Does the parking of a car become a more important issue than providing and planning safe, quality housing for people, especially children? Will ignoring the existing accessory apartments make them go away? It is time to act in a responsible manner. They are here and are one needed housing choice. Let us move forward to wipe out housing that forces both home owners and tenants to live in violation of zoning bylaws.

We believe most people would like to stay within the law and it's not their choice to live in an illegal situation or to provide an illegal apartment. Help us help the families we serve by passing Bill 120 and in this way assist people in obtaining accommodation that will

contribute towards the wellbeing of children, who are society's greatest asset.

We'd like to finish by commending the NDP government for bringing forth a bill that will recognize the rights of all its people, both tenants and home owners.

**Mr Hans Daigeler (Nepean):** Thank you very much for your presentation. Frankly, I think you've certainly done your research and it obviously reflects an involvement in this matter that goes over many years, as you said yourself.

However, I'm just still not fully convinced that this solution that is being put forward is really going to help the people you're concerned about that much. It may have some impact, but I'm still more of the feeling that I was after the hearings in Ottawa, where people said there's probably not going to be much of a takeup on Bill 120 because of the costs involved, as we said earlier.

You're saying that perhaps the federal government is going to help these landlords make these improvements, and perhaps that's a good thing. I hope that would happen. But that would be my question: Would you not agree that really a more comprehensive housing policy shouldn't start with Bill 120? I don't think the care for the children that you're interested in should start with basement apartments or even apartments in houses. If there's really that much of a demand as there is, I guess, in the Metro Toronto area still for proper housing, I think we have to go about it in a different way and provide proper and decent and full housing for those people so that they can live in the environment you're asking for them. So really my question is, would you not agree that Bill 120 may be one step, but a very minor step, towards a full housing policy?

**Mrs Jamieson:** First off, I think Bill 120 is one step, as you say, but it's not minor. You have 100,000 apartments out there and I think in many cases, as one of the members did mention, that was how they got started. That happens to a lot of young families and that happens to a lot of older people who really can't afford to always stay in their own home unless they have someone else rent or help them with service.

The fact that there are 100,000 out there tells me that there is a need, and it is comparable in price, in comparison to having to try and go into a high-rise. There are a lot of people out there who have to start somewhere, and obviously over 100,000 homes are filled with these people. It may be their choice. For instance, not everyone wants to live in a high-rise. Sometimes people need to live near the schools or even have a park or a backyard. They don't want to live in a large complex and they also don't have the finances to go into a large complex.

I agree that it's a step, but it's a step in the right direction. But it's not minor.

**Mr Grandmaitre:** If I can go back to page 7 of your submission, you say, "The passing of Bill 120 offers more legal housing units on the market." My biggest concern with Bill 120—and I say it's maybe a step in the right direction—is that we are not attacking the slum landlords. That's my biggest concern. Without giving municipalities the right of entry, and I mean a full right



of entry, not through a warrant and so on and so forth, I think we're simply covering up these slum landlords, because these people know their tenants will not report the deficiencies, like the one you pointed out, a leaky pipe or whatever. That's my biggest concern. I think we have to go out, not on a witchhunt, but to identify these illegal apartments and make them legal. But I don't believe that Bill 120 will create more housing units. I think you're wrong on this one.

1150

**Mrs Jamieson:** I appreciate your concern, because we have the same concern. However, we view it in a different way. One is that I think public education is going to be most important. There are a lot of tenants who right now do not recognize that they're even living in an illegal situation; there are a lot of home owners who don't recognize that if they have a family member there, this is illegal to begin with.

It's rather interesting that in Scarborough, for instance, out of 1,400 basement apartments there have been only 400 complaints, which is 3.8%, and of those complaints there have been very few that they haven't been able to resolve in a mediation manner. So I also feel that through education of the public these homes will be brought up to better standards.

You will always have a certain number of slum landlords. I don't know of a law that ever gets passed—there are always those who fall between the cracks, but there is this opportunity to change this. If they know they can get loans or grants, we can't turn around and say they no longer can afford it. If they even get rent, for a while that rent will be the opportunity to repair or bring up to standards what they have there.

But as things stand now, everything is illegal. You cannot get a building permit. It's amazing to me. My brother lives in Scarborough. He has a home there that he's had for 40 years. He put in a basement apartment when he first went in there and the city actually came out and inspected the apartment and told him that all he had to do was change the sink into a bar sink and he'd be okay. He's got the building permits to prove that, yet Scarborough pretends that it's never had any powers. I have a problem with that.

**Mr David Johnson:** I thank you for your deputation. It raises an interesting dilemma in that just two deputations before you was the Society of St Vincent de Paul commenting on the other half of the legislation and indicating that in terms of its transitional home for men, for example, recovering from alcohol addiction, the bill as stated would have a severe impact on their program and recommending that fairly significant changes be made to it. So it raises the dilemma that you're in support of one half and they're opposed to the other half. If the bill goes through the way it is, I think it highlights the fact that we really have a bill that has two different components to it and they should have been separated.

Anyway, maybe to speak to your half of it, the building that you mentioned with the entrance, the apartment, on the bottom of page 5, top of page 6, where the tenant couldn't get the proper action, do you recall if that was an owner-occupied property?

**Mrs Jamieson:** Yes, it is owner-occupied. He just totally ignores her.

**Mr David Johnson:** I guess the previous questions alluded to this a bit. From my experience, the bulk of the complaints that do come to a municipality, whether by a neighbour or by somebody living on the property, I guess, are concerning absentee owners. These are very difficult to come to grips with by the municipality. I remember a number of deputations to a council meeting expressing concerns. We had to set up a special committee in East York to deal with—at one point there were three, I remember, that were quite contentious. We had the police involved and the whole thing.

I wondered if you'd given any thought, because I think there's a lot more support and there would be a lot more support in the community if we looked at owner-occupied properties as opposed to all properties.

**Mrs Jamieson:** I would have trouble supporting that, I have to admit, because I believe that just as there are problem home owners that live in a community, so are there home owners that are not so good to their community. I feel the same way about absentee landlords. There are some excellent basement apartments that are there, and there are absentee landlords that are very responsible, but you're going to also get your landlords that are not responsible. I think the problem in a neighbourhood is that they often like to attack, and when there isn't some person to attack, they feel that they like to blame it on the absentee landlord. Tenants are usually very good and responsible people; the majority are not irresponsible.

I use an example in my own neighbourhood again. I'm inclined to do that because it's my own personal experiences. I own a small home in Scarborough. It is just a tiny three-bedroom home. About three houses up from us a family that was very difficult also owned a similar type of home. We found that the night pool parties were not too bad until they went on to 5 o'clock in the morning and there were a lot of beer bottles and all the sort of things that I keep hearing about tenants. They were not tenants; this was their two children. I won't go on to say what happened with those two children in terms of further repercussions because of their behaviour, but that had nothing to do at all with a basement apartment; this was their own children. We, as neighbours, had no choice but to put up with it, because the most you could do is call the police, and it didn't seem to rectify very much, quite truthfully.

**Mr Owens:** I'll be quite brief. Ms Smith, Ms Jamieson, it's good to have you at the committee. I think if we were to look for people as expert witnesses, with respect to your experience in the community, not only in housing issues but in issues with respect to domestic violence and advocating on behalf of children, both of you would be, in my view, expert witnesses. I appreciate your support of this particular legislation, and I appreciate your views that neighbours from hell come in all kinds of shapes, sizes and forms, and it's not just the basement apartments that have difficulties but that even in East York you've got people living in single-family dwellings that are problematic.

**Mr George Mammoliti (Yorkview):** In our House,



it's the opposition.

**Mr Owens:** Thank you. The neighbours from hell called Johnson, Cordiano.

**Mr Gary Wilson (Kingston and The Islands):** Thank you very much for your presentation. I certainly found it insightful, based as it is on your experience. I do want to say too, since Mr Johnson raised the issue of the previous delegation, I think he made the point that the hearings could be stopped at their presentation because common sense certainly seemed to shine through in their presentation. I think from what we've heard overall in the hearings it's very difficult to come up with common sense; it's always a challenge. I think it depends on whose common sense you want to draw on. It's quite clear that if we just went with your presentation, which strikes me as—I don't want to say the commonest of sense, but very good common sense, that we would be able to come up with a good bill.

I do want to mention, though, that the mix of people and housing in communities should be promoted, which you underlined yourself in your presentation. One that I would like to underline, which you haven't but you certainly mention, is that "We believe renters should not be treated as second-class citizens." I think that's what we're trying to do in both aspects of Bill 120, that regardless of where a person lives they should be treated the same way, that they should qualify for the same rights as anybody else. I think you've made it clear in your examples that it doesn't matter where you live; you come under certain circumstances. It doesn't matter why you're there; it's how you deal with them. As you point out, renters can be very responsible in the way they treat their premises, just as home owners aren't necessarily as considerate.

I want to thank you for your presentation and just say that it's done a lot to help us in our deliberation here.

**Mr Mammoliti:** What do basement apartments and single-family dwellings do for the behaviour of children? Is it better for children to live in a basement apartment, in that type of atmosphere, in an apartment building, or in a home such as a two-storey home, over the long run?

**Mrs Jamieson:** No. The ideal world is to win the lottery, to own your own home and, in my vision, with a garage, particularly in the winter. But the reality is that we have to live where we can afford to live and in the best circumstances. I agree with you that if you had a choice not to live in a basement apartment you wouldn't do it, as I wouldn't live in a house that doesn't have a garage. The reality is that I don't have or certainly didn't have that choice, so I think it's important to provide housing.

What I don't want to see is the number of children we've had to bring into care because housing that they've had is totally inadequate. I can tell you that I have visited basement apartments because, addressing the issue and wanting to speak to the issue, I wanted to have a visual knowledge of what we were up against. Some of those basement apartments have been atrocious for some of the young families that I've had living in there. On the other hand, there have been some that are very safe and well-constructed.

I'd love to give everyone a home. That would be the ideal dream, but I know it's not a reality. So, yes, I could turn around and say to you, "Yes, I'd rather see everybody live in a home above ground" and all these other things, but the reality is that 100,000 basement apartment people have chosen and that's their choice.

**The Chair:** Thank you very much for appearing before the committee today. Your presentation has been most helpful.

The committee will reconvene to hear depositions at 2 o'clock this afternoon. For members of the subcommittee, I would ask that you stay for a few moments.

*The committee recessed from 1203 to 1401.*

#### TORONTO CHRISTIAN RESOURCE CENTRE

**Mr Carmel Hili:** My name is Carmel Hili. I am the coordinator of the program at the Toronto Christian Resource Centre. The Toronto Christian Resource Centre is a housing provider with 37 houses and about 185 units. They are all shared accommodation, and we serve single people. To my left is Matti Rampanen, who is a tenant, and he will also be addressing the committee after my presentation.

I will begin by thanking you very much for the opportunity to address you regarding Bill 120. I represent, as I said, the Toronto Christian Resource Centre, which is housed at 40 Oak Street at Parliament and Gerrard East. We own and provide shared accommodation in 38 houses sprinkled throughout the downtown area of Toronto. We have been doing so—providing housing, that is—for the last 20 years. The people whom we house are low-income single people who come to us from hostels, the streets, detoxification centres, institutions, the run-down rooming houses and from street people talking with each other.

We provide shared accommodation; five people to a house. Each one has his or her room. A room is furnished with a bed, a table, chairs and a refrigerator. People share a common kitchen and bathrooms, often two bathrooms to a house.

As mentioned earlier, we have managed these houses for two decades and have always worked under the Landlord and Tenant Act. I repeat that we have managed our shared housing accommodation for people who formerly lived on the streets and in hostels for 20 years, and we have always done it under the Landlord and Tenant Act.

We believe that all tenants are equal and we take that as our guiding principle, irrespective of their income, health, status or type of housing they live in. So a poor person, an ex-mental patient, a man or woman on a fixed income, who lives in a rooming house or boarding house, does not have fewer rights than a well-off or middle-income tenant living in a luxury or other apartment.

Our society is built on this fundamental principle that each one of us is equal in front of the law. It is a principle of fairness that is ingrained, I think, in our psyches as a civilized community. The Canadian Charter of Rights legally binds us to treat everyone in the same manner, especially in the matter of tenancy rights.

Prior to June 28, 1987, when Bill 10 was approved, we at the Toronto Christian Resource Centre fought hard to



make the Liberal government of that time aware of the vulnerability of low-income people living in rooming and boarding houses and of the continual haemorrhaging of these people's basic tenancy rights. Thousands upon thousands of them were evicted in typical garbage-bag evictions.

We know that too because, in addition to housing, we do community development work and community work, as well as street work. We were in touch with the rooming house population south of Bloor and east of Yonge Street, and we have been to hundreds of rooming houses in that general area. Many were literally kicked out and their belongings left outside on the porch, without their being able to use the law to protect themselves.

Bill 10, which was enacted into law in June 1987, brought a measure of protection under LTA to people who live in shared accommodation. However, subclauses 1(c)(viii) and (ix) excluded tenants who lived in accommodation where the landlord had some sort of funding arrangement with various government ministries. It also left out those who lived in accommodation for the purpose of receiving care, therapy and rehabilitation. These subsections disfranchised some 45,000 people who lived as long-term tenants in accommodation where they received some form of support.

With the coming of the non-profit housing providers in the mid and late 1980s, a whole number of them were quick to take advantage of the ambivalent wording of these provisions and operate outside the act. Other submissions prior to us have documented abuses of basic rights perpetrated by non-profit, as well as for-profit, landlords on the basis of these exemptions.

We at the Toronto Christian Resource Centre stand for Bill 120 in its legalizing of basement apartments and making them safe places for people to live in. We stand for meals provided in care homes being subject to rent control, just as they are currently in boarding homes. However, this afternoon what we want to address above all in the deputation is coverage under the Landlord and Tenant Act for all tenants.

We stand for Bill 120 in its sweeping away of the exemptions in subclauses 1(c)(viii) and (ix). We commend the Minister of Housing for bringing a bill that will protect often very vulnerable people who live in long-term housing where there also may be some form of care. We commend the minister for defining more tightly "therapy" and "rehabilitation."

Much has been said to you in these hearings, I'm sure, to the effect that we should not enact such a law, or we should gut it, because some tenants might abuse the rights that it enshrines. However, our position is that tenants' rights of people living in shared accommodation should not be curtailed, because some tenants might break the law that gives them these rights.

The Charter of Rights gives us all basic human rights. However, we would not dream of throwing it out because some citizens abuse it and commit crimes against other innocent citizens.

We come to you this afternoon as veteran providers of shared accommodation for low-income and often hard-to-

house people. We want particularly to address the right of these tenants to security of tenure and due legal process. We know from front-line experience about some of the difficult stories that have been recited to you many times in the past two weeks by people who want to operate outside the act.

1410

We ourselves have dealt many times with tenants who create a hellish environment for the other tenants around them. However, having said that, we still firmly declare two important things to you: First, we uphold equal tenancy rights for security of tenure and due legal process in case of eviction for all tenants, including those tenants who live in shared accommodation where some may also receive some form of care and indeed also those tenants who may be in breach of the tenancy responsibilities. Secondly, we also recognize the rights to safety, security and peace of the other tenants who live in shared accommodation where a wayward tenant may be causing problems.

We do not want to sacrifice the right of a tenant to security and due legal process for the sake of the rights of the other tenants in the community. Neither do we want to ignore the rights of the other tenants who make up the household in our upholding of the individual tenancy rights of one tenant. We feel that we need to find a way of balancing the right to security and due process of a tenant with the right to safety, security and peace of the other tenants in the household.

Thus, towards balancing of these rights, we recommend that the present bill be further amended to allow for fast-tracking the legal process of evicting a tenant in the following circumstances. I would like to take an aside here to say that when we're talking about fast-track, we are not talking about removing a person from premises. We are talking about accelerating, fast-tracking the legal process which is in the Landlord and Tenant Act which, at the present time, from our experience will take anywhere from six weeks to a year. We would like that to be accelerated so that it could be done in two weeks.

We are saying we accelerate that process when there are these conditions that hold:

(1) when there is housing which is shared, such as a house with five tenants who room in it and who share the use of the bathroom and kitchen, so shared accommodation like a rooming house;

(2) in cases only, we are saying, that pertain to eviction due to misbehaviour as articulated in part IV, clauses 109(1)(b), (c) and (d) where:

"(b) a tenant at any time during the term of the tenancy exercises or carries on or permits to be exercised or carried on, on or upon the residential premises or any part thereof any illegal act, trade, business, occupation or calling;

"(c) the conduct of the tenant or a person permitted in the residential premises by him is such that it substantially interferes with the reasonable enjoyment of the premises for all usual purposes by the landlord or other tenants;

"(d) the safety or other bona fide and lawful right,



privilege or interest of any other tenant in the residential premises is or has been seriously impaired by act or omission of the tenant or a person permitted in the residential premises by him where such act or omission occurs in the residential premises or the environs."

We submit that the present procedure could be streamlined so that an eviction could be carried out in a period of not more than two weeks. We believe that such a change would bring on side many housing providers who currently are opposed to the changes brought forward in Bill 120.

In particular, we are recommending the following:

That subsection 109(1) be amended to read "that the landlord may serve on the tenant a notice of termination of the tenancy agreement to be effective not earlier than the fifth day"—instead of the 20th day as it is at the present time—"after notice is given, specifying the act or acts complained of, and requiring the tenant, within one day"—instead of within seven days as it is at the present time—"to cease and desist from activities mentioned in clauses (b), (c) and (d)."

We are also recommending that in subsection 109(4) the last four lines be amended to read "The landlord may serve on the tenant notice of termination agreement to be effective not earlier than the seventh day," and not the 14th day as it is at the present time, "after the notice is given."

We are submitting also to you that cases dealing with behavioural problems such as those referred to in clauses 109(1)(b), (c) and (d) be heard directly by the judge, bypassing the clerk of the court and that the issuing of the formal judgement, the paperwork involved in the sheriff's office and the carrying out of the judgement by the sheriff not take more than five working days.

For us, these recommendations present a way of balancing the right to safety, peace and security of tenants in a shared community and the right to due legal process in eviction of a particular tenant. This position also, we feel, respects the integrity of the act but attempts to fine-tune it so that in its implementation it would also be fairer to all the parties involved in problems addressed in clauses 109(1)(b), (c) and (d), namely, problems related to personal and interpersonal behaviour.

Thank you once more for listening to our deputation. Before we pass on to any questions that you may want to ask us, Matti Rampanen, who is a tenant, would also give a short submission.

**Mr Matti Rampanen:** Like my friend here, Carmel Hili—my name is Matti Rampanen—I'm a resident of TCRC home. I have been there since July 1993. As a tenant I was requested by the landlord to sign a tenancy agreement and believe that every other tenant of the house was requested to do the same.

About the middle of August, one of the tenants began to interfere with my enjoyment of the premises where we reside. After numerous meetings with all residents of the house and the landlord's agent, it was agreed that any further interference would result in a formal request to change the behaviour of the offending resident.

Having had verbal as well as written notice of his

offending behaviour, this particular resident, although verbally agreeing, did not change his actions. As I understand it, there was a clause in the Landlord and Tenant Act that allows a landlord to serve notice of early termination for interfering with the enjoyment of the premises of the other residents. I personally believe that up to two weeks is quite sufficient a time span for a landlord to evict someone who will not adhere to and respect the rights and privileges of other law-abiding residents.

When my safety and the enjoyment of the rented premises are jeopardized by a resident who refuses to have respect for other residents, I have to request my landlord to rectify the situation. When my landlord's hands are legally tied, it makes my life at my residence quite uncomfortable and at times unbearable.

I am therefore in full support of an amendment to Bill 120 which would allow a landlord to take swift legal action against the offending resident.

I thank you kindly for allowing me to voice my concerns.

**Mr David Johnson:** I thank you for that deputation. I think it's a very constructive suggestion in terms of the fast-tracking process, because certainly today it doesn't take two weeks and we've heard other deputations, including your own, that have indicated the consequences if there's a disruption.

**1420**

One of the concerns that's come before us is not in a case, though, where a tenant is actually doing anything illegal in a sense—for example, the Society of St Vincent de Paul was before us this morning and it runs a transitional home for men recovering from alcohol addiction—but simply where one of the residents or two or more of the residents decided not to go through the program but to bring in alcohol. Now that's not a violation, that doesn't contravene the Landlord and Tenant Act. I just wondered under your procedure, which, I'll give you credit, is an excellent suggestion, if a situation like that would be dealt with. I don't think that would help St Vincent de Paul.

**Mr Hili:** As you say too, if people drink and they do not disturb others, they are not breaking any laws. The problem is when they drink and they do not go in the room and drink quietly but when they act up and they affect the enjoyment of others.

**Mr David Johnson:** I'm sorry, can I just add, and I didn't state the whole question clearly, the concern there was not that they were acting up but that they were a bad example. Other people are trying to become dry and watching some people drink has just made the whole rehabilitation process and therapeutic process impossible. The others would be affected by this and it would make their therapy unsuccessful. That was really the problem.

**Mr Hili:** Right. They have not been doing anything illegal, that's right, and in this situation what is jeopardized is the program, it's not the welfare and it's not the safety—

**Mr David Johnson:** Not the immediate welfare.

**Mr Hili:** That's right, not the immediate welfare, and



they were not in danger bodily, physically, most likely, I suppose. It was the program, as I see it, rather than the mere enjoyment and use of premises. I believe as it is at the moment the act says if it substantially interferes with the enjoyment of premises, if your behaviour interferes substantially with the enjoyment of premises of other tenants or the landlord, then that is in contravention of the act. So that's right, in this case, as I see it. The act may not be breached, it may not be in the process of being breached, but the goals of sobriety and moving beyond that may be jeopardized.

**Mr David Johnson:** And which has consequences for the residents who are in there and jeopardizes their long-term health and welfare. We had tenants from St Vincent de Paul who said they wouldn't have made it themselves without these rules. These rules were very essential for them and if other people were drinking in their presence, then they wouldn't have been able to be successful and that would have had very adverse consequences on their lives in the long run.

**Mr Hili:** Right, but I think irrespective of that, the issue here is the tenant's rights. If a person is doing things that are jeopardizing the welfare and the sobriety and the long-term program of particular residents, other residents—that's right, if they are doing something like that, they are doing something which is not right. I'm losing my thread of thought here.

**Mr David Johnson:** Just while you're thinking about it, can I ask you, is your main purpose for accommodation or for rehabilitation? In other words, are you basically a living place or do you have a program that would assist people?

**Mr Hili:** We provide housing, basically, for people who require housing. We have two types of housing: One is for people who have an addiction and have not made up their minds yet that they want to cease drinking, and we also have a program where we have housing for people who are dry and want to stay dry and so they live in a reinforcing environment there with other people who are also staying dry.

**Mr David Winninger (London South):** Thank you for your presentation. You've dealt with an issue that, as other members have indicated, has come up over and over again, and that's the complex issue of how we balance the right of a tenant to security and safety, I suppose the right of the landlord to maintain a certain state of decorum in the residence and also the right of the tenant being evicted to due process. That's a very difficult one to resolve, as I'm sure you've found.

We've taken an approach which we feel is a reasonable one, in that under the existing Landlord and Tenant Act, as you know, a landlord can serve notice of early termination of tenancy, a 20-day notice, allowing seven days basically to correct what's wrong. As you've pointed out, that may be an illegal act on the premises, it may be disturbance of the quiet enjoyment of others, it may be a variety of circumstances that lead to that kind of notice.

Many of the deputants who've appeared before us have said: "Why should there be one law for the rich, or people of means, and another law that applies to evictions

of people who have the misfortune to be in a low-income group, or have a disability, or a substance dependency? Why should there be one rule that applies to them which might entail fast-track eviction and why should there be another rule for those who aren't in similar circumstances?"

It would seem to me that if you're a landlord or if you're another tenant in a building who's suffering as the result of a tenant's misconduct, that's the kind of situation that occurs not just in boarding houses or retirement care facilities, but can occur in a variety of circumstances and does occur in a variety of circumstances. Frequently, in those cases, you seek the intervention of the police if it's an illegal act, of health professionals if it's something that may fall under the Mental Health Act, or you may seek the intervention of the family if the individual appears perhaps to be lacking in capacity.

I guess I would ask you then, since there are ways and means presently used to deal with these situations, and I guess the ultimate recourse would be the Landlord and Tenant Act, why the case needs to be made so strongly for a fast-track eviction?

**Mr Hili:** I think the reason for fast-track is because of the housing form. It's not so much because of the tenant who lives in it, but because of the housing form that these tenants use, consume. Living in a self-contained apartment in an apartment building is totally different from living in a room—rooming houses could be as big as 15 rooms—with, say, anywhere from four to 14 others living next door to you. You share a bathroom with them, or bathrooms, and you share the hallways with them and a kitchen with them, and you are very dependent on each other for the basic conveniences of life.

If you are living close to somebody like that who is creating a terrible environment to live in, then that is a good reason for respecting the rights of the tenant, by making sure that justice is done in as fast a way as possible so that the other tenants who are so dependent on that particular tenant, who may not be acting as he should as a tenant, could also have their own rights to safety, security and peace honoured. You must remember that when there is a tenant who is acting up, then there are other tenants who are living next to him whose rights are being trampled over.

**Mr Daigeler:** I just would like to pursue the question that Mr Johnson had asked earlier. You said that you are providing two types of housing. One is sort of strictly a housing component, and then another or some other houses that you provide—what is it? Do you have a care component there? Do you have some people who provide more than looking after the rental aspect?

**Mr Hili:** Yes. We provide housing for single people and they are all shared accommodation. There are usually five rooms to a house, so there are five residents in a house. They share a kitchen, a bathroom and a living room. Because most of our people, as I said in my deputation, come from the hostels or the detox centres or institutions, many of them have an addiction problem, so we provide housing for them. There are some who, if they drink, for example, want to continue to drink responsibly. Fine. They can live with others too who do



that, but there are some who come to us who come, say, from halfway houses or three-quarter houses, who want a dry environment to live in.

We have also initiated some houses where the people who live in them, the tenants who live in them, are dry and trying to stay dry with a—

**Mr Daigeler:** But that's just sort of a policy, it's not part of the mandate that you have given yourself to try to rehabilitate?

**Mr Hili:** No, we do not have a program of rehabilitation. However, we—

**Mr Daigeler:** Okay. Essentially, you're a housing program.

1430

**Mr Hili:** Correct, but just to also add that we have a facilitative management component too; that is, we have staff that go into these houses and work with the people in these houses to make decisions together, to accept new tenants, sometimes to take part in the eviction of people who are not—

**Mr Daigeler:** But if I understand you right, I do think, from what you are saying, you have given yourself a different mandate than many of the other groups that came before us whose major mandate is not housing but in fact treatment and rehabilitation. It's under that perspective that they came to us and said, "We cannot fulfil the mandate that we have, which is not housing but rehabilitation and treatment, with these kinds of restrictive—or with the provisions of the Landlord and Tenant Act."

I think we just have to be clear that you don't have that mandate and therefore you have less difficulty with the Landlord and Tenant provisions because you are a housing provider.

**Mr Hili:** We do have difficulties because, of course, we have people too who are trying to stay dry. It affects them. We have problems too, because it takes sometimes up to a year and you can have a lot of things happen in a year when you have someone who is acting up. We really need to have, I think, a method whereby people who are acting up could go through their legal due process faster than it is at the present time.

**The Chair:** Thank you very much for coming to see us this afternoon. We appreciate your deputation.

**Mr Hili:** Thank you very much.

**The Chair:** I would just at this point bring members' attention to a letter I received from the Ministry of Housing clarifying—at least hopefully clarifying—an issue that was raised yesterday. The clerk is distributing that letter to all members.

**Mr Cameron Jackson (Burlington South):** Is that the breakdown of the costs of this bill?

**The Chair:** That is not.

**Mr Jackson:** Is that forthcoming? I'm shocked that we didn't have any on record, but is it coming?

**The Chair:** I presume it is. We have asked, as a committee, for it. I'm sure the ministry is labouring away at trying to provide those figures, but I can only assume that.

**Mr Jackson:** Great. Thank you.

#### ONTARIO ADVISORY COUNCIL ON SENIOR CITIZENS

**Mr Bill Hughes:** Good afternoon. My name is Bill Hughes and I am the chair of the Ontario Advisory Council on Senior Citizens.

To give you a little bit of background as to our organization, we are established by order in council, composed of volunteers whose mission is to advise the government, through our particular minister, who is the Minister of Citizenship, of issues affecting seniors. We are an advisory group and our advice is on a wide range of issues, all affecting seniors—about the 1,200,000 seniors in this province.

About two and a half years ago we got interested in a component, that is, a component of this bill, and that is the aspect of garden suites. We got involved with this because over a period of time an experiment had been done to see whether these facilities would be useful to seniors in this province. They had been tried in other parts of the world with some degree of success.

We thought the concept was a good one in so far that it allowed older people to remain in a home environment close to support members, so it allowed independence and yet guaranteed some form of protection and support. It also meant that seniors would have the chance to have a decent lifestyle and, not because they were unable to live totally independently, not have to go into an institution which would be inappropriate and premature.

We felt very strongly about the value of what was referred to from time to time as granny flats or garden suites. We wanted them to have a good chance to show what they could do for Ontario seniors. Some attempts have been made to test them out. We became aware, though, that there were some problems in communities themselves to allowing their involvement. The problems seemed to centre around municipalities' understandable concerns about who would be in these garden suites.

The garden suites themselves one visualizes as being kind of a separate structure with some obvious connection, but not necessarily physical connection, with kind of a host house. Or it could be, though we didn't really look into this aspect too much, something within the structure, but sort of independently cordoned off so there would be privacy and yet access.

As I say, we became concerned that municipalities felt uncomfortable about allowing these structures to be installed or built because they were concerned about who might be tenants. Our reaction was one of understanding but certainly of disappointment that what we see as a very useful form of housing for seniors—and we also include in with seniors in this instance persons with disabilities—was an opportunity that was going by default because of a problem of tenancy.

A couple of years ago, we made a recommendation to our minister that if the matter came to her attention, our view was that garden suites were a great idea but because of the understandable problems municipalities were facing and maybe communities themselves were facing, we saw a justification for limiting residency to seniors who are related to the host or people with disabilities.



We understand there may be problems in designating this as being inequitable, but we understand that the Human Rights Commission has advised that this special-interest group, seniors and people with disabilities, are legitimately specialized and that it does not cause an act of discrimination to have them declared as the sole type of resident for a garden suite.

What we present to you today is our view on this aspect of the bill, not so much as to be exclusive but to be realistic, and by this means allow municipalities to support the concept and allow this form of residency to be established. That's our submission.

1440

**Mr Gary Wilson:** Thank you very much for your presentation, Mr Hughes. It's good to hear the support for this idea of the garden suite, and we think it is going to be well received. There has been a lot of support now in our consultations.

I regret to say that my colleague Mr Mills would very much like to have spoken to you about it. He would have told you that there will be a presentation later on that actually deals with some experience in putting up garden suites and how they would look and just some of the aspects to their placement.

I want to say, though, in response to some of the things you've raised, that it is a permissive right. There's no requirement that municipalities allow garden suites in their jurisdiction. But we think there are enough conditions there that it should be feasible to put them in place so that everyone will be assured that the uses they have are the ones that provide the best arrangement for the community. There is the agreement, the garden suite agreement, that the municipality would sign with the owner setting out the conditions that the garden suite would be set up under, even as far as naming the person who would be using it.

But, as you point out yourself, there are some restrictions limiting who would be using the garden suite as far as the Human Rights Code goes and the Planning Act provisions as far as family members go, so it's unlikely that you could stipulate that it would be family members who would be using the garden suite. However, it's possible that the special-use provisions in the Human Rights Code would allow seniors and people with disabilities to use them, to restrict them to that use, if the municipality thought that would suit its purposes. I guess I just want to make sure that fits in with your understanding of the issues.

**Mr Hughes:** Yes. As I say, our concern is not to limit it in a sort of selfish fashion, but merely to avoid the possibility that granny flats or garden suites would be turned down as an option because municipalities were not comfortable with the possibility of unlimited tenancy.

**Mr Gary Wilson:** That would be part of the garden suite agreement, that the length of time—well, it does give up to a maximum of 10 years anyway, but the provisions of its removal would be part of the garden suite agreement.

**Mr Hughes:** So you feel that a municipality would not feel disadvantaged in going ahead with garden suites

on the basis of the tenancy agreement that you proposed?

**Mr Gary Wilson:** That's right, the garden suite agreement. It sets out quite clearly what the conditions are. However, you did, though, suggest garden suites within buildings. I don't know whether you were thinking there of something like the apartments in houses.

**Mr Hughes:** Yes. There have been experiments where suites within the house have been kind of authorized for this purpose, and that seems to work out very well. This often means that the building looks exactly as it did before, but certain internal partitioning is rearranged, which provides privacy but still provides a means of access in the event of problems.

You're aware that one of the considerations in this for seniors and people with disabilities is that people in this situation are subject to more accidents, particularly falls, than the average population, and this has often been considered as a reason for getting older people moved out of normal, traditional homes and put in some kind of safe place.

We believe this is a violation of their independence. You can see why it is suggested, though, and that is, as I say, that there is a very much higher incidence of accidents and particularly falls, burnings and so on, when a senior reaches a period of frailty. The advantage then of having somebody close to him who isn't interfering with that person's life but is there to check and monitor becomes obvious and is part of the package that makes us feel very comfortable about this form of suite.

**Mr Gary Wilson:** Yes, exactly. It does combine the security of knowing that help is nearby, and help that you probably are familiar with as a resident, plus the independence which is so valued and which is what we're trying to promote.

**Mr Hughes:** Yes, and it seems consistent with the whole long-term care redirection of living in one's own home, not as long as possible but as long as desirable and as long as the individual wants to go that route.

Again, our concern is that the bill should not imperil a municipality's willingness to authorize this type of structure. We felt that by limiting it, as I think was originally intended years ago in other places, to seniors and people with disabilities would, to our understanding, guarantee that. But I accept what you have to say as some kind of assurance otherwise.

**Mr Daigeler:** I appreciate your presentation because, if I'm not mistaken, I think it's the first one that is zeroing in on that particular aspect of the bill. It's rather interesting to have sort of a new perspective being brought forward.

You are referring in your brief to a 1990 summary report that demonstrates a high level of satisfaction with the granny flat provision that was there before. Is this a ministry report or is that something that your council put together? Or what is this?

**Mr Hughes:** No, it was something that came available to the council at the time we made our original position a couple of years ago.

**Mr Daigeler:** But I mean, who prepared it? I'm simply asking because if it's a ministry—



**Mr Hughes:** I cannot give you the information at the moment; I don't have it at the moment. But if you direct me, I'll see if I can get you a copy.

**Mr Daigeler:** I wonder whether perhaps the parliamentary assistant, if I can have his attention for a second, if this is a report that was prepared by the minister, and if so, I would be very interested; not frankly in the whole report, but just in an executive summary, if that would be available. In particular—and again, you may know, you may not know—what has been the takeup? How many granny flats were in fact being allocated? Would you know that?

**Mr Hughes:** No, I don't know.

**Mr Grandmaître:** I like your presentation, your deputation, and as my colleague pointed out, it is different from the basement apartment deputations that we have been hearing for the last couple of weeks. I agree with you that the garden suite program, the pilot project of 1984, was a great success, except that not too many municipalities joined in the pilot project. That was the problem.

**Mr Hughes:** I agree with that.

**Mr Grandmaître:** I can recall back in 1983, when Ottawa-Carleton was the first regional municipality in the province of Ontario to adapt its zoning bylaws and also its official plan to reflect the need of garden suites and how great they would be; I can tell you that they have been a great success. I also agree with your council that the unlimited use of garden suites should be looked into, for the simple reason that some landlords do abuse the garden suite.

1450

My question, Mr Hughes: You were established or created by an order in council back in 1974 and you now communicate, I hope, frequently with the Minister of Citizenship and the cabinet. How is this done and how often do you advise the Minister of Citizenship and the cabinet on the needs of senior citizens in the province of Ontario?

**Mr Hughes:** There are two or three ways we do it, Mr Grandmaître. The first is by their directly asking for information, and they've asked for information, for instance, on palliative care. We would do a study and end up with a publication that we would hand to them.

It could be something perhaps less formal than that in which they ask for information on maybe free dental care for seniors and we would give an opinion based on the findings that we would have and that would probably be in the form of a letter or a personal discussion with the minister.

We can go much more formally, as we have in two or three instances. We've recently concluded a major study on conditions for seniors in first nations' communities in a report that we entitled *Denied Too Long*, in which we give some very deep and broad conclusions of what we have found in those circumstances.

**Mr Grandmaître:** Was your opinion sought on Bill 120?

**Mr Hughes:** No. It was our own awareness that this issue was coming up and we felt that we had a right and

a responsibility to make some kind of recommendation.

**Mr Grandmaître:** Thank you.

**Mr Jackson:** Are you aware at all, Mr Hughes, if the government has indicated that you have been supportive of the bill?

**Mr Hughes:** I don't have any information on that, sir.

**Mr Jackson:** Are there elements of the bill that you felt the council didn't have consensus on in order to report to the committee today?

**Mr Hughes:** No. The only element that we felt we would have a particular interest in was this aspect of granny flats. It wasn't that we were disinterested in the other areas; it was just that we felt this was something that we had a particular responsibility to have some comment on.

**Mr Jackson:** Then, if you can't speak for the council, do you have any opinions about the aspects of the rest and retirement home amendments in this legislation?

**Mr Hughes:** No.

**Mr Jackson:** Are you familiar with those elements?

**Mr Hughes:** Somewhat.

**Mr Jackson:** Did your council do much work with respect to Bill 100, the changes to long-term care reform?

**Mr Hughes:** Yes. We made a report on that and submitted that both to the minister and to the committee on long-term care reform.

**Mr Jackson:** You supported in that report, as I recall, the splitting out of the residential component with the care component with the consumables, food and other elements. You supported that?

**Mr Hughes:** Yes, I think I remember something on that.

**Mr Jackson:** The government proposes to do that as well with this legislation. Is that a similar trend that you support?

**Mr Hughes:** I can't answer you on that. Sorry.

**Mr Jackson:** Bill 100 also talks about penalties now that are in place for senior citizens who are absent from their nursing home, which is cause for concern.

**Mr Hughes:** Yes.

**Mr Jackson:** They surfaced in the regulatory aspects in the shadow of the legislation. Similar concerns have been raised with this legislation with respect to absences from rest and retirement homes. Do you have any comments for the committee in that area?

**Mr Hughes:** No, I believe we didn't make any comment on that with respect to the long-term care bill and we have not done that with this. I'm aware of the issues and I understand the implications and I'm aware of certain positions that have been taken by other interested seniors groups.

**Mr Jackson:** You've addressed briefly the notion of the discriminatory aspects of housing defined by age or disability or whatever. Has your council taken any position with respect to the current situation facing seniors in subsidized housing where it is completely integrated now? Has your council accepted that principle or are you still recommending that seniors have reason-



able enjoyment and have accommodation access which is geared specifically to their needs?

**Mr Hughes:** I must say, Mr Jackson, we have not studied it.

**Mr Jackson:** Okay. I appreciate, as has been echoed by others, you have given us perhaps a more comprehensive approach to the garden suites and that is helpful to the committee.

**Mr Hughes:** Thank you very much, sir.

**The Chair:** Thank you, Mr Hughes, for taking the time to come and see us today.

ONTARIO FEDERATION OF COMMUNITY  
MENTAL HEALTH AND ADDICTION PROGRAMS

**Mr Christopher Higgins:** My name is Christopher Higgins. I'm the executive director of the Ontario Federation of Community Mental Health and Addiction Programs. My colleagues today are Julie Mancuso and Mark Zaborowski, who are members of the housing interest group, one of our subcommittees.

The Ontario Federation of Community Mental Health and Addiction Programs is pleased to provide input into Bill 120 with regard to the impact of the bill on mental health and addiction rehabilitation and recovery programs.

The federation represents 227 member agencies throughout the province of Ontario. We're a non-profit association with voluntary membership. We provide a range of mental health and addiction services from vocational rehabilitation to case management to substance abuse—residential treatment programs, which are part of housing. Approximately 100 of our agencies provide mental health and addiction programs which include accommodation as a component of the service. These organizations are funded in whole or in part by the Ministry of Health community mental health branch.

Our comments and recommendations are based on what we believe to be of critical importance to ensure that there is a comprehensive array of rehabilitation and recovery and supportive accommodation options. This array is necessary to meet the diverse needs and preferences of consumers of these services.

I'd like to give you a couple of examples of that diversity just now. Some folks who have a serious mental illness are quite capable of maintaining their relationships with friends and families and have good domestic skills. A supportive housing setting appropriate to those could be an independent apartment with weekly meetings with a case manager. For other folks who are socially isolated and have poor domestic skills, a shared accommodation setting with high amounts of staff and peer support may be the best option.

I'd like to take a few moments to give you a quick overview of mental health and addiction housing programs. There are a number of main program models for housing services. Some of these have housing stock of their own and provide permanent housing with support services designated to the building or unit, so the operator either owns a building or has a contractual relationship with an apartment to use a certain number of those units. Staff in these settings assist people to successfully maintain their housing.

The second kind of program provides support wherever an individual decides to live. These are not associated with a particular building, group home or apartment. They rely on the range of alternatives available to the public in the housing market. The goal of these programs is to help people secure and maintain permanent housing in the community using existing stock.

A third type of program provides transitional rehabilitation and recovery services. These are designed to assist persons to learn the skills necessary to live independently, to gain confidence and rebuild their system of friends, family and supports. The ultimate goal is to ready people to live independently in permanent accommodation.

These programs are not intended or designed to provide permanent accommodation themselves. Typically, they are congregate living settings with a household cooperative made up of the members who live there. The cooperative manages the house, sets its rules and even has a role in selecting new residents for the program. These programs are transitional in nature but they allow people to take the time they need to achieve their goals without an arbitrary time limit. People with serious mental illness and/or substance abuse problems must have sufficient time to pursue their goals at their own pace. The stress of deadlines can exacerbate the problems they face.

1500

The recent mental health reform initiative by the government of Ontario identifies an array of key services. One of these key services has been the housing service program for those with serious mental illness and other populations. Existing rehabilitation and recovery programs in residential settings have been operating for over 10 years and play an important role in the array of mental health and addiction services.

The federation strongly supports the fundamental intent of Bill 120. These amendments to the Landlord and Tenant Act will ensure tenant rights for a much greater proportion of the provincial citizenship.

It is our position that people in permanent accommodation should be entitled to the protections available under the act. It is also our view that rehabilitation and recovery programs of a transitional nature should be treated differently under the act.

We would like to take this opportunity to make some recommendations regarding the proposed amendments of part I of the Landlord and Tenant Act. The goal of the recommendations we are suggesting is to ensure that there is such an extension of protections under the act to permanent accommodation settings without undermining the viability and effectiveness of existing rehabilitation and recovery programs.

Our recommendations fall into two parts. The first part is regarding supportive housing services which provide permanent accommodation, which are already or will be under the Landlord and Tenant Act. The second part is regarding rehabilitation and recovery programs that provide transitional accommodation and which are or should be exempt from the act.

In relation to those services which are or will be under



the act, there are a number of programs which provide permanent accommodation where tenants share kitchen and washroom facilities and perhaps also common rooms, laundries and so on. In these settings, the behaviour of an individual can affect the safety and wellbeing of the other residents. For example, a person may be frightening or regularly become intoxicated and unpredictable, or may be suffering an acute episode of mental illness. The impact of these behaviours on the other residents who may be psychologically fragile can be serious and may even trigger acute episodes in others resulting in rehospitalizations. As organizations with the responsibility to support the mental health of all our clients, this poses a serious problem. We also have a duty to ensure the safety of our workers, particularly under the new Occupational Health and Safety Act.

The option of using police or committal to deal with these situations is generally unworkable. Even in the cases where they may intervene, the mental wellbeing of the individual is not positively affected by such an intervention and the collateral effect on the other residents is usually very poor.

We recommend that organizations with programs in such settings be provided a process for a quick temporary relocation of a tenant and that a full Landlord and Tenant hearing be accelerated, allowing for an accelerated eviction process. This process allows organizations to ensure the safety of other residents. The recommendation is in keeping with recommendation 17 of Dr Lightman's report, *A Community of Interests*.

I'd like to turn to those programs that do not provide permanent accommodation. Our recommendations 2 through 6 focus on rehabilitation and recovery programs. We are concerned that the amendments as written would cause fundamental changes in the nature of these programs, would reduce their effectiveness tremendously, and perhaps mean that they are simply not viable any more. People would no longer be clients in a rehabilitation or recovery program; they would simply be tenants.

Putting such programs under the Landlord and Tenant Act may well eliminate the rehabilitative elements of those programs. Currently, the program residents as a group define the guidelines within which they choose to live. This could no longer be possible, as any individual could opt out at any time. The residents who choose to bring alcohol into a dry program could do so, as it no longer is a program; it is simply a place to live. If enough residents choose to be tenants and opt out of the rehabilitative program, the collective household activities will no longer work. Eventually, the program will fill up with non-participating tenants and it will no longer exist as a program. Folks will simply live there and the program staff will not have anything to do. In the meantime, while it's filling up, the peer-based learning, support and rehabilitation process will be less and less effective.

The sole reason for the existence of these programs is to help rehabilitate individuals for permanent future housing and increased quality of life. Elimination of rehabilitative programs would have a profound effect on those individuals currently being successfully served in the pro-

grams. There are also many folks who are on waiting lists to enter these programs, who are looking for rehabilitative services. If people who are in them already simply become tenants and make a permanent home of the place, those spots are all blocked. There is no way for the people who are on the waiting list to enter the program.

In order to preserve the effectiveness and viability of these programs, we would make the following recommendations.

Bill 120 amends the definition of "residential premises" to include "any premises occupied or intended to be occupied by a person for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy." The apparent breadth of this definition is problematic. Rehabilitation and recovery programs that provide accommodation may in fact be captured by such a definition even though people are in them for purposes other than accommodation. Our services are similar in many cases to services that are excluded under other acts, such as the Mental Health Act.

Just as an aside, there has been work on a community mental health act that would cover our programs; however, this has not been a priority recently. It would have been very helpful in our particular case to have it intact so that we could refer to it, but it's not available.

Therefore, we recommend that in programs where the primary purpose is rehabilitation and recovery and the primary purpose is not permanent accommodation, organizations be able to apply for exemption from the Landlord and Tenant Act.

Further, if the government decides to define "rehabilitation and recovery" in regulations, the federation would be prepared to contribute to their development. This may be a means to ensure that this exemption is applied properly and differentiates between these fundamentally different settings.

We further recommend that residential rehabilitation and recovery programs which are exempt under the Landlord and Tenant Act adopt a due process for program discharge. This due process should be developed by the Ministry of Health in close conjunction with the Ministry of Housing and in consultation with service providers. Such a process will establish protection against arbitrary discharge from the program, an appeals process and so forth. The implementation of such a due process would be consistent with recommendation 15 of Dr Lightman's report, *A Community of Interests*. As in other jurisdictions, such a due process would be embedded in the funding or licensing agreement between the government funder and the service provider organization as a condition of funding. Typically, in many US jurisdictions this licensing arrangement contains all the rules that pertain to these kinds of situations.

It's important to note that people in our programs generally have a number of agencies and advocates involved with them. Decisions regarding discharge from a program are typically made with consultation and input from all agencies and usually involve a case conference. Given that our mission is to support the wellbeing of people in our programs, such decisions to discharge are not made lightly.



The next area we'd like to comment on redefines the characteristics of a program that could be exempt under the act due to the provision of rehabilitation or therapeutic services. This exemption for rehabilitation and recovery programs is of critical importance.

Subclause (ii) states that "the building or structure in which the accommodation is located shall not be the principal residence of the majority of the occupants of the building or structure." The difficulty this poses is that to be eligible for general welfare assistance or family benefits allowance, one must have a principal residence. If you don't have a principal residence, there are many obstacles and in some cases it's impossible to get these supports. Many of the individuals entering into our rehabilitation or recovery programs which include accommodation have not resided with their family for many, many years, have lost their housing due to hospitalization, or have been homeless. They can't use another address as the principal address.

Our programs have in the past been a temporary principal residence for participants while they're working on their skills. The difficulty with this proposed amendment is that it would no longer be possible for people in rehab and recovery programs to use the address as a principal residence, and they may lose their welfare and disability benefits.

We recommend that the wording in this section be changed from "principal residence" to "permanent residence," thereby changing that technical reality. We also recommend that an additional clause be included stating that this definition shall not affect eligibility under the general welfare act or the Family Benefits Act. I think the last thing we want to do is cut folks off from the safety net of income supports when they need them most.

#### 1510

The next area we wish to address is subsection 3 of the rehab exemption which states that the average length of occupancy for the occupants of the building may not exceed six months. We support the concept that rehabilitation and recovery programs should be transitional. There should be a negotiated specific length of stay. We also support the principle that people would be discharged and leave the residential program when they have met their objectives or when it has been determined that their objectives cannot be met.

On the other hand, the occupancy criterion of an average of six months for rehabilitation programs allows insufficient time for people to prepare for increased independence. The experience of our member agency has been that this process typically takes two years, not six months. If we have such a deadline, people are going to rush through the program. They may not be ready to leave; or they may have to leave when they're not ready to leave; or programs may not be able to take people who need a long time to make the changes they need to make because they know that, if they take them in, they're going to have to ask them to leave in six months.

There is no quick fix in the addiction and mental health world. Therefore, we strongly recommend that the length of stay in rehabilitation and recovery programs remain flexible and be based on the individual's needs.

The terms of residency should be specified in a written service agreement prior to the applicant moving in. If there has to be some kind of a timetable or a time line on this, it ought to be based on the real-world average of two years. Please note that not every agency has this average but most agencies as a group together, when my members sit down, agree that two years is about the right period of time. That's an interagency average, if you will.

We encourage you to give these matters the most serious consideration and make the changes necessary to ensure that the programs that serve our consumers and clients are not undermined or eliminated in the pursuit of legitimate goals around the extension of the rights of those in permanent accommodation as envisaged in this bill.

On behalf of our member agencies and those consumers and clients in our programs, I'd like to thank you for the opportunity to speak to you. I and my colleagues would be happy to answer any questions you have concerning these matters.

**Mr Cordiano:** It was actually my colleague Mr Daigeler who pointed out to me at this time that it was probably important to note that we have not heard from the Ministry of Health on this matter, as to whether the actual programs that you administer, the service you provide, are going to be adversely affected by Bill 120.

We have not asked their opinion. I suppose at some point we probably should ask officials from the Ministry of Health, in their estimation, what the effects will be on your programs because ultimately, I think, they have a responsibility in this area to ensure that you are meeting objectives. If you can't meet those objectives because of Bill 120, well then, what do they have to say about it? Would you agree with that view?

**Mr Higgins:** I certainly think they have a responsibility, as the funding body for all these services, to have an opinion about a bill that would affect the viability of the services they are providing.

**Mr Cordiano:** And you, as service providers, are saying very clearly and unequivocally that there's going to be a problem in delivering this service. I think we have a crisis on our hands, a potentially enormous problem to deal with. The Ministry of Health is either completely ignoring this or completely disagrees with you.

**Mr Higgins:** There is a committee under the mental health reform called the community services and supports committee, which is developing the community mental health branch's version of housing guidelines. The matter's been discussed at length there. The committee is a reference committee to the ministry. In other words, it's made up mostly of folks from outside of the ministry: consumers, survivors, service providers, family members and so on.

We have discussed aspects of the nature of housing programs, the need to have an array of services that go from high support to permanent accommodation. That array and the breadth of that array has been supported by the committee itself. The steering committee of the mental health reform has yet to take a specific position on it.



**Mr Cordiano:** Do you think this committee would be wise then to ask for the Ministry of Health's input on the very matter that's before us, as to whether in fact the initiatives contained in Bill 120 will adversely affect the programs? Do you think we should call the Ministry of Health before the committee?

**Mr Higgins:** I think they are certainly in a position to give you the advice of the funding body responsible for the programs and I should think that would be helpful to the committee.

**Mr Cordiano:** We've heard from other presenters about the length of time that would be most effective in terms of exempting you from the Landlord and Tenant Act. You suggest two years. We heard from various people yesterday that 18 months perhaps would be appropriate etc. There's a little bit of difference here in terms of the length of stay for tenants, but obviously you're saying that six months is simply out of the question.

**Mr Higgins:** Six months is unworkable. Folks are just finding their way around the neighbourhood, getting used to the program services and beginning to get a focus on what their goals are and where they're going to be going with the program in that period of time. It just won't work.

**Mr Cordiano:** I'm intrigued by your comments with respect to the ability to define what rehab and recovery centre—that definition. You feel that could be accomplished; that we could in fact in legislation define what is a rehab centre.

**Mr Higgins:** I think it would probably be best left to regulation to define that, but there are jurisdictions which have definitions of rehabilitation for the purposes of licensing and also for the purposes of funding. It's been done before by other governments, both state and federal, and I don't see a reason why we couldn't do it here. I think the absence of such a definition makes it a moving target when you get into issues about whether a program is or is not a rehabilitation program and therefore should or should not be under the act.

**Mr Cordiano:** That's really the concern and I think, if I have any time left, I would just—because this is a central point in the legislation. If we are able to define what is a rehab centre, and that would include some of the centres that provide very minimal kind of care but none the less depend on the transition to take place among tenants—that they are providing a supportive setting for tenants to be integrated into the larger community. It would be difficult because there isn't a whole lot of care that's being provided, but they want to maintain that transitional aspect of the home. That is where I'm having difficulty trying to allow that reality to continue. If not, if we provide such stringent definitions around what is a rehab centre, we may exclude those centres in fact.

**Mr Higgins:** I think that's part of the reason why the regulations would have to be carefully crafted. We don't want to set them up in such a way as to defeat our own purposes. On the other hand, we also, I think, don't want to see them as an escape hatch. That's why it needs quite a bit of care.

**Mr David Johnson:** I certainly thank you for your deputation. Mr Jackson and I and the other members of our party have certainly heard a number of deputations like this now and I must tell you that we have full 100% sympathy for the circumstances you describe.

It has come to my attention that it's not the easiest thing to make a deputation like this when you're getting funding from the provincial government. I don't know if you had any qualms about that, but you've certainly put forward your views, I think, in a very forthright and thoughtful manner here today.

Basically you're saying that because of the congregate living setting, whether it's from the housing side or whether it's from the rehabilitation side, it's different than, let's say, what we might think of as an apartment building where the Landlord and Tenant Act should fully apply. The key difference here is perhaps the congregate setting.

**Mr Higgins:** I think there are about two key differences. Congregate setting is one of them. The other is that this is clearly not a typical landlord and tenant relationship. We're funded only to take folks with a certain kind of mental health disability, so we're not taking folks from the general population. We're not trying to do that and we're not trying to provide, in many cases, permanent accommodation. Some of our programs are, but some are not.

1520

**Mr David Johnson:** You've laid out probably the most clearly of all the deputations I've heard that if the program is based on housing, then housing is the primary objective and then it should be the fast-track mechanism.

**Mr Higgins:** It should be under the act as a landlord-tenant relationship and a fast-track option to help it be viable and practical.

**Mr David Johnson:** Right, and if rehabilitation is the primary objective, then it should be exempt from the Landlord and Tenant Act.

**Mr Higgins:** That's fundamentally right.

**Mr David Johnson:** That's very clear and makes a great deal of sense.

Getting back to the previous question, and this revolves around where the primary purpose is rehabilitation and recovery and being able to define that, you've indicated that you think that can be done. Is there any definition that exists today? I guess the concern here is that some boardinghouses may try to distort their situation and take advantage and come under the rehabilitation or recovery section where they probably don't legitimately lie. I wonder how we prevent that.

**Mr Higgins:** We certainly share that concern. Many of our folks have had experiences in boarding homes that suggest that they need better protection there for sure. We're not looking for something that somehow mitigates against that protection in those settings.

But rehabilitation is a specific discipline; it's not just sort of a general thing that you do. There are functional assessments. There are plans for rehabilitation. There is a discipline. There is research to support the discipline. There are many jurisdictions which have in fact legisla-



tion in place that says, "We will fund rehabilitation." That means that suitable rehabilitation definitions exist in our practice, in professional terms, and in law, in legislative and funding terms. That exists. We have to research that, but we can do that, and we have to develop a definition that is suitably succinct and strong enough that it differentiates between the two settings. That's what we're advocating that we do. That takes some time to do, and I think it should be done in regulation. However, it can be done.

**Mr Jackson:** I concur with my colleague's observations. Let me just ask you for a response to the notion that's been floating around that under the Landlord and Tenant Act they'd have subletting rights. Could you comment on that for the record?

**Mr Higgins:** If you can imagine a situation where there are, say, eight folks who are sharing a program together, the objective is for each of them to help each other move forward on rehabilitation goals and eventually move on to permanent accommodation. Then, under the act, the fundamental assumption changes. Suddenly this is permanent accommodation and you have a choice about whether you can be involved with the other residents or not. Then someone sublets a unit. No longer are we working together to try and get somewhere. Suddenly a stranger moves in. You have no idea where they came from or whether they have a mental health problem or whether they don't, whether they're interested in helping or not, and so on. The program and the congregate living environment are out of control of the folks who are nevertheless having to live there and make their way the best they can in the program.

It would be a major problem if units could be sublet out of high-support rehab programs to folks who are not even in the right population. How am I going to explain to the Ministry of Health how half of my programs are filled up with folks who don't have a mental health problem? I mean, it's just simply not sensible.

**Mr Jackson:** Would that not violate your funding criteria?

**Mr Higgins:** It would.

**Mr Jackson:** It would be like a vacancy, in a sense.

**Mr Higgins:** As far as they're concerned, it would, yes.

**Ms Julie Mancuso:** I'd just like to add that we're funded based on program and resident goals and we're evaluated based on the achievement of those goals. So I think when we're talking about rehabilitation and why people are there, that goal planning is an important aspect.

**Mr Mammoliti:** I'm very sympathetic to what you're saying and I understand perfectly well the ramifications if the bill goes forward the way it is. I'll say that quite bluntly. Some will argue, however, that outpatient care might deal with your concerns, that you can deal with patients on an outpatient type of an approach. I know that isn't possible with every patient, and the initial assessment is a very important step in determining how a person gets help, depending on the drug that they're on and that sort of thing.

Just for the record, I want to go through the steps that you would take. A lot of the organizations that you represent would of course start out by detoxing, would they not?

**Mr Higgins:** The recovery programs would definitely involve a detoxification for us.

**Mr Mammoliti:** That would be a lengthy process in itself. Once somebody doesn't have the substance in them any more, then they need to make a decision as to whether they want help or whether they don't want help, and that's where the assessment comes into play. You then assess somebody, and that could take up to how long?

**Mr Higgins:** It really depends on the assessment process. Some are a series of meetings with an assessment referral in an assessment referral centre; some are involved as the initial step in a residential treatment program.

**Mr Mammoliti:** So it's a fairly lengthy process, or it can be. Then you go into a 28-day live-in program, perhaps, or maybe something even more than that, depending on the situation. Family care, I understand, is very essential to the therapy as well as aftercare, and aftercare plays a large role in all of this, after the 28-day program or whatever it is. That doesn't mean the person can go home or the person can be dismissed; aftercare plays a large role in the rest of the person's life, and I understand that. All a lengthy process.

After the lengthy process, and for the record, if an individual decides to go back on to the substance, no matter what the substance is, obviously they don't want the help, and if you don't want the help, then there's no way of helping a person. Am I right? I mean, what does that do to the rest of the residents, if somebody is coming in stoned and on some sort of a substance? What does that do to the rest of the residents?

**Mr Higgins:** In an addiction recovery program, having someone intoxicated coming into the program tends to undermine the whole impact of the program. It's very upsetting for folks who are struggling with the issue of substance abuse. It's a demonstrable, negative event that clearly suggests that not succeeding in recovery is a possibility, and that undermines people's sense of hopefulness and their ability to go ahead.

In a mental health program, intoxication usually interacts with medications and can be a problem, but not always. It can be no more than anyone else having a couple of drinks, but if there is medication involved, the interaction of the medication can have some negative effects.

**Mr Mammoliti:** So clearly outpatient care isn't the only solution.

**Mr Higgins:** No. There is no panacea. Some folks think that there is a "one size fits all" approach to mental health or addictions, and it's simply not that way, no more than there's a one-size approach to shoes. I mean, folks are different. They have fundamentally different needs depending on who they are and at what point in their life they're at, and what they're hoping for from the program. In a way, it sort of just has to—



**Mr Mammoliti:** I'm just going to yield to my colleague.

1530

**Mr Winninger:** A quick point on the subletting issue: I'm sure you're familiar with section 89 of the Landlord and Tenant Act, which provides that there can be a clause in the lease that wouldn't be incompatible with the act that would provide that the landlord approves subleases, such consent not to be unreasonably or arbitrarily withheld. Clearly it would seem to me that if the lodging is provided for the purposes of rehabilitation or recovery, that would be a very legitimate reason for withholding consent to sublease. Maybe I misunderstood your point on that, but it seems to me that you can't just sublet a unit willy-nilly without the consent of the landlord, and that's pretty clearly spelled out in the act in most leases. Any response?

**Mr Higgins:** First of all, right now the programs are filled with folks who don't have leases, because we're not providing accommodation.

**Mr Winninger:** But the Landlord and Tenant Act provides an unwritten lease. That's the lease where you don't have a specific lease. That's your code.

**Mr Higgins:** Yes, and although the Landlord and Tenant Act allows that the landlord may stipulate that you may not sublet, it does not say you may not sublet without the landlord's approval flat out; it says you can negotiate that in the form of the lease. So it's silent one way or the other, I would think. I'm not a legislative expert but I would wonder if the allowance of such a thing is the de facto equivalent of having that.

There are remedies to a lot of the situations that we might face, most of which involve fundamental change in the relationship of the folks in the program to the program and to each other. You can in fact wear the wrong size shoe if you want to try hard enough, but it simply isn't what our goal is. We are not there to provide permanent accommodation.

Although we could struggle to make that work, we would be struggling against something that reduces the effectiveness of the programs, perhaps would have some harmful outcomes for the folks who are already in them and we're trying to avoid that. We're trying to help folks, not to see something come along that has a fundamentally good intention which we do support but which in this particular environment is inappropriate.

**Mr Winninger:** I certainly support your general direction.

**The Chair:** Thank you very much for coming and appearing before us today. You've been very helpful.

#### TORONTO PSYCHIATRIC SURVIVORS

**Ms Martha Gandier:** Thank you, Mr Chairman and members of the committee, for the opportunity to respond to Bill 120. My name is Martha Gandier. I'm the coordinator of Toronto Psychiatric Survivors. We are a group of mental health consumer-survivors. Most, probably all of our members, have been in institutions and almost all of our members live in some form of non-profit housing.

I am a psychiatric survivor. I've spent about 18 months in psychiatric hospitals. I'm also a single mother and live

currently in co-op housing, although I have lived in non-profit housing.

When is a person living in their own home and when is a person living in an institution? What rights does a person have in their own home? What rights does a person have in an institution?

Many non-profit housing providers believe that the poor need to be rehabilitated. We believe that the poor need housing. We would like to tell you, from our own experience, about people living in their own homes who are treated as if they are living in an institution because they are denied LTA protection. I would also like to tell you how I, as an agent of the landlord, was expected to control and coerce tenants.

We are talking about rooming houses, or shared accommodation. We are talking about people who can only afford to rent one room. We are talking about the poor who seek housing, not care or rehabilitation. We are not talking about group homes.

Non-profit housing providers across Ontario regularly evict tenants without recourse to landlord and tenant court. I have worked as a housing worker for two non-profit housing providers, Houselink Community Homes and CRC-Self-Help Inc. Non-profit housing providers' front-line staff are called housing workers. The housing workers may select and evict tenants; they may collect rent; they may be responsible for supervising the maintenance of the property; they may supervise or assist tenants; they may also advocate on behalf of tenants when a need such as income maintenance arises.

Housing workers have intimate personal contact with the residents. They often have access to all the tenants' personal, financial, medical and psychiatric records. They supervise and assist tenants in a variety of ways, including daily living skills, conflict and crisis management, budgeting, banking and personal counselling.

Tenants are often told by their landlord how they must behave or they can be evicted, suddenly. I was told when I worked for Houselink that Houselink was a co-op under the Co-operative Corporations Act. Staff would use the intent or threat of that act to evict tenants. Staff would call a meeting of the residents and get the tenants to vote to evict the tenant that staff had chosen to evict. Most tenants could be controlled or coerced by staff. The eviction could be very quick, depending on whether or not the resident tried to defend himself. Yesterday you heard how Peter Bobyk-Huys was evicted without any notice at all. Houselink management bragged about evicting a tenant on a Christmas Eve several years before I worked there.

Here are three examples of Houselink evictions that I personally witnessed.

C was a Houselink tenant. He became disruptive. Houselink did not use the LTA to evict him. Instead, two Houselink housing workers persuaded the four other residents of C's shared apartment that they had to ask him to leave. Then, claiming to operate under the co-op act, Houselink evicted him. He became homeless.

Another tenant, D, also lived in a Houselink home. He had lived in boardinghouses for over 20 years and found



it impossible to learn to shop and cook and look after his basic hygiene. The housing worker in this case was desperate, fearing that D would starve to death if she didn't cook for him and make sure he ate. Her supervisor demanded that she leave him to his own resources in order to empower him to look after himself.

When he failed to learn these tricks of deinstitutional life, staff decided to evict him. They met with each of the four residents of his apartment, and even though two of the residents claimed that they didn't know him, staff convinced the tenants that they should ask him to leave. Then, again claiming to operate under the co-op housing act, Houselink evicted him. He went to Queen Street mental hospital.

A third tenant, P, lived in a Houselink apartment with three other tenants, sharing kitchen, bathroom and living room. Houselink wanted to evict one of the other tenants. When P's welfare cheque was late, Houselink prepared to use his non-payment of rent to evict all four tenants as a co-op unit. Then they could reinstate P and the other two good tenants and thus get rid of the unwanted tenant. I lent P the money to pay his rent, and no one was evicted. Then Houselink threatened to fire me. I have since learned that Houselink is not a co-op under the co-op housing act.

Houselink uses the co-op model as a tool to pursue its own agenda. In my experience, it was used to disempower residents rather than to empower them. I have seen both of my former non-profit housing employers try to turn the residents of a house against one of the tenants.

Tenants are the first to demand a fast-track eviction process. Time and again I have seen the residents of a house turn on one of the tenants and demand that he be evicted. That is why complete LTA protection is so important to tenants. No other act can protect us from sudden, arbitrary eviction.

An apartment tenant who is threatened with eviction has his day in court; a rooming house tenant threatened with eviction often is simply told to get out. He does not get his day in court. The apartment tenant, when evicted, is forced to find another apartment; the rooming house tenant, when evicted, may become homeless, wandering the streets with his possessions in a green garbage bag. He may lose his possessions, including his family photographs, financial and personal documents and everything that he values.

**Delinking:** The housing worker employed by the housing provider, or the landlord, has three priorities: the first is to keep his or her job in order to feed the family; then the housing worker is employed to manage property, choose and evict tenants and collect rent; thirdly, the housing worker is employed to provide support to the tenants. The housing worker is caught between these three conflicting priorities. Usually, the bottom line becomes the top priority. The tenant finds that the person employed to provide him with support has the power to evict him.

Some non-profit housing providers are adamantly opposed to delinking. The landlords do not want a third party providing services to their tenants. The service agency wants to help the tenants, and the landlord wants

to collect his rent. The landlords know from experience that there will be conflict between the service provider and the landlord.

When Houselink moved people into its new project in 1988, many of them already had support workers from other agencies. The residents' support workers did not have access to the building, and the intercom did not work. I was told not to let these support workers into the building. Support to tenants was limited to Houselink staff even though the residents had long-term relationships with COTA—Community Occupational Therapy Associates—Archway and MTACL, which is the Metropolitan Toronto Association for Community Living. I felt that it was a power struggle between Houselink and the service agencies, and the tenants paid the price.

The Rupert Hotel Coalition was a coalition of non-profit housing providers and was funded by this government to provide housing for the hard-to-house in Toronto. The coalition employed two agencies to provide support services to the Rupert tenants. Three of the member non-profit housing providers refused to allow these independent agencies to serve their tenants. One non-profit housing provider agreed to this service and then locked the support workers out of their houses for a few weeks. The ministry staff are very familiar with this story.

Keith Whitney Homes Society asked Street Health to provide a weekly clinic in the building for their residents when the building first opened. Street Health was asked to leave when differences arose between Street Health and Keith Whitney.

#### 1540

Landlords do not want other agencies providing services to their tenants. They do not want their power to govern the lives of their tenants threatened by another agency. We have seen this time and again. The provision of housing and services must be delinked in order to provide the poor with even a semblance of the security and dignity of life that the rest of us take for granted.

**Fast-track:** Fast-track eviction has been proposed to resolve issues of violence, potential violence, inappropriate behaviour and interpersonal conflict. We disagree with this solution.

First, the power to threaten eviction is a thousand times more important to landlords than the power to evict. The landlords want to keep the power to threaten to evict in order to be able to govern the lives of their tenants. Non-profit housing providers use this threat to force tenants to take a bath, clean house, stop smoking, take medication, attend treatment programs and even to attend religious retreats. They use this threat to organize tenants to evict an unwanted tenant. It's also used to prevent or disrupt tenant organizing.

Many non-profit housing providers threaten all their tenants with sudden eviction, while only some tenants are actually evicted. While few tenants might actually be evicted by a fast-track eviction process, 100% of the tenants in hundreds of residences would live under constant threat. We know; we've been there.

Second, throwing a person out into the street is not the best way to deal with conflict. There are better processes



available: improved mental health services, conflict resolution and crisis intervention services, as suggested by the Canadian Mental Health Association in its deputation on January 20.

Third, there are enough laws already to deal with potential violence. The deputations made yesterday by Parkdale Community Legal Services, the Tenant Advocacy Group and the Advocacy Centre for the Elderly listed some of these other remedies. Home owners and apartment tenants would never tolerate a constant threat of sudden eviction without cause. Our society only treats the poor in this manner. The poor are being institutionalized. Thank you.

**Mr David Johnson:** I appreciate your deputation. It's quite a condemnation of the non-profit housing sector. Is that what you had intended? You say non-profit housing providers use the threat of the Landlord and Tenant Act to hang over people's heads. I thought there was a fair amount of support for the non-profit sector, actually.

**Ms Gandier:** When landlords have that much power and tenants either don't know their rights or feel that they have no rights, there'll be abuse of that power.

**Mr David Johnson:** So we're not just talking about profit-making landlords here; you're talking about non-profits, clearly.

**Ms Gandier:** Yes.

**Mr David Johnson:** That's very interesting. I had the impression through here—and I think you actually indicated it at one point, if I can find it. You're talking mostly about housing. You said, "We are talking about the poor, who are seeking housing, not care or rehabilitation." So the comments that you're making are primarily related to just the housing component, people who need housing.

**Ms Gandier:** Yes.

**Mr David Johnson:** I don't know if you heard the deputation before you from the Ontario Federation of Community Mental Health and Addiction Programs, where its primary goal, for part of its program at least, is for therapy or treatment—

**Ms Gandier:** Care rehabilitation.

**Mr David Johnson:** Care rehabilitation. That's the word I'm looking for: "rehabilitation." Now, that would differ, I guess—

**Ms Gandier:** Very much so.

**Mr David Johnson:** Very much so?

**Ms Gandier:** Yes. It's time-limited and people don't consider that their permanent housing. You know beforehand that you're going to have six months or two years or whatever the suggested length of time is. You're also assessed. You know the services that you're going to be given and you have an idea of what your responsibilities are, what is expected of you. But people apply for non-profit housing because they need housing and it's affordable.

**Mr David Johnson:** They had suggested that they should be exempt and other organizations like them, where the primary purpose was rehabilitation. So you're not commenting on that. I don't know if you have any

comment on that or not.

**Ms Gandier:** No.

**Mr David Johnson:** You're only commenting where the primary purpose is housing, period.

**Ms Gandier:** Housing, yes.

**Mr David Johnson:** In that case, you do not even support the fast track.

**Ms Gandier:** No.

**Mr David Johnson:** Again, that differs from them a bit in that they say where the primary purpose is housing, the Landlord and Tenant Act should apply but there should be a fast-track process. I think they're saying that because of a number of people living together, the congregate setting. A number of organizations are saying this. We've heard over the past couple of weeks, that where people are sharing various facilities, maybe washrooms or kitchens or whatever, this is different than a self-contained unit.

**Ms Gandier:** It sure is.

**Mr David Johnson:** Consequently, if somebody is causing a lot of trouble or affecting the other tenants, then there needs to be a way to deal with that quickly.

**Ms Gandier:** I've always thought, especially when I was working as a housing worker, that once you take on the responsibility, the contract should be two ways. Therefore, if the relationship breaks down and the housing is no longer appropriate for the resident, some alternative should be pre-contracted. For instance, if an ordinary apartment tenant gets in trouble with the law, he may go to jail but he won't lose his housing. Even in my co-op, which has adopted most of the Landlord and Tenant Act, I would be treated through the legal system. I wouldn't lose my housing. I'd still be able to have somewhere to come home, whereas a lot of people, if they get into trouble in the non-profit housing—it could be a behavioural thing—they simply lose their housing.

**Mr David Johnson:** We have a letter that was just given to us today from the minister, I think—it must be at the bottom of my pile here somewhere—that indicates that the Landlord and Tenant Act would be supreme. It's from the assistant deputy minister. It indicates that if any agreement was to be struck, the Landlord and Tenant Act would be supreme and would be what would be enforced. So the problem persists in a congregate setting if you have somebody who's causing a lot of trouble, and many are suggesting that that's where there should be some fast-track process.

**Ms Gandier:** But it should be the housing provider's responsibility, because if someone goes into crisis—they've got supportive non-profit housing in the first place because they're a psychiatric survivor. So they go into crisis and it doesn't solve anybody's problem for them to lose their housing. It exacerbates the problem. So there should be some alternative, either a high-support boardinghouse or crisis intervention like the Gerstein Centre, where people can go and pull themselves together, as it were.

**Mr Gary Wilson:** Thank you very much for your presentation, Miss Gandier. It's nice to see you at the



mike, Bob, because I know you've been here through much of the hearings. It's good to see that you have an opportunity to take part in them in this more direct way.

Of course, the picture you paint of the scene from the point of view of a house worker is pretty depressing, and I think you make very strongly the case of why the Landlord and Tenant Act conditions have to prevail in a much more expanded way.

I was just wondering if you could just elaborate from your point of view on what you'd see as some of the other supports that you would like to see in the community, say, following up on the delinking and of course having access to the people in these residences. What are some of the supports that you would like to see, from your point of view, that would really help defuse some of the more extreme emergency situations, but even beyond that, help in everyday living for the residents?

**Ms Gandier:** As I said, the workers have really intimate contact, and quite often, if a person has been institutionalized or lived in a boardinghouse for most of his life, the relationship with the housing worker is very important. So the potential of a housing worker being of tremendous benefit to somebody who's struggling to stay in the community is there. It's when the housing worker is also an agent of the landlord, so it's your responsibility if somebody punches a hole in the wall. It's almost as if you're torn in two ways—whether you're going to advocate on behalf of the tenant or the landlord. You're also seen as an agent of the landlord.

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**Mr Gary Wilson:** It sounds like an impossible position.

**Ms Gandier:** It's a conflict of interest.

**Mr Owens:** On page 8 you talk about the power relationship between the tenant and the landlord and that the ability, if I can paraphrase what you're saying, essentially to cause people to be afraid is actually worse than having the power to throw somebody out of their house. That's an issue I would like to explore, if you could talk a little bit more about that power relationship and why it's important to have the protections.

**Ms Gandier:** I didn't realize it until I worked as a housing worker, but it's certainly important for people to feel that they have rights, to know that they have rights. I also worked for a roomers' association for a while and I was astounded that people didn't realize they actually did have rights under the Landlord and Tenant Act, the rooming house.

Just the threat that you can lose your housing is very much present, and housing is very important. It's one of our basic needs. You have to have somewhere that you can go and lock the door and know that nobody is going to unlock it behind you.

**Mr Owens:** Exactly.

**The Acting Chair (Mr Bernard Grandmaître):** Mr Cordiano.

**Mr Cordiano:** I'm sorry I did not get to hear most of your presentation. I apologize, but—

*Interjection.*

**The Acting Chair:** I'm sorry. Mr Fletcher.

**Mr Fletcher:** I want to thank you for your presentation. It was a good presentation. Is there any chance that someone like Houselink, since they do provide some services, could register as a provider, rehabilitative, or just providing—

**Ms Gandier:** I don't know.

**Mr Fletcher:** —maybe not rehabilitative, but they offer some services that may be therapeutic as far they're concerned, to try to get away from the Landlord and Tenant Act?

**Ms Gandier:** They would certainly try, I suppose.

**Mr Fletcher:** You think they would?

**Ms Gandier:** I don't know.

**Mr Fletcher:** I think that would be upsetting.

On the fast-track evictions, the previous group, I have to admit, were very gentle in the way they said they would like to see the fast-track and that they would find temporary accommodation for the person, which is nice, while they were going on. Others would evict people right off the bat. I'm just wondering, as far as evictions are concerned, if a person were evicted from Houselink, such as you say, do they have the right to appeal at all or are they just out on the street?

**Ms Gandier:** No.

**Mr Fletcher:** That's what concerns me about this fast-track stuff, because a group of people may say, "We don't like you." It could be a conspiracy; it could be what have you. The person gets evicted and wishes to appeal. They're out on the street. How are they going to appeal an eviction when they're out on the street? It's hard enough when—

**Ms Gandier:** That's the problem.

**Mr Fletcher:** Yes. I can't agree with the fast-track eviction. I think there has to be some compromise somewhere. We have to give people due process.

**Mr Gary Wilson:** The Landlord and Tenant Act.

**Mr Fletcher:** Yes, the Landlord and Tenant Act.

**Ms Gandier:** The previous speaker was clear that part of their service is care and rehabilitation and it's not long-term housing. They're clear about that when people move in, that this isn't permanent.

**Mr Owens:** Mr Fletcher covered quite nicely the issue with respect to fast-track eviction. I have some difficulties as well with the process that people have been asking for, for the reasons that Mr Fletcher mentioned. Also, there seems to be a presumption with psychiatric survivors or those who are developmentally handicapped, or whatever, that there's going to be a problem where I can't do anything about, you know, the neighbours from hell in my neighbourhood. But there's a presumption that persons like the clients and members of your organization represented are going to get strange and so we've got to have a way to throw them out when they get strange. That's not appropriate.

**Mr Cordiano:** I hesitate to get into a debate with the governing members. I'm going to follow the rules and ask questions. I think that the members of the govern-



ment would only like to hear what they want to hear when we're talking about these questions. Essentially we're talking about situations where there are shared accommodations, congregate living situations where tenants are physically close to each other. We're not talking about a neighbourhood where people are separated by walls, one lot to another, or in fact an apartment building where you can lock the door and go into your own unit. We're talking about congregate living arrangements where people physically cannot remove themselves from someone else's physical space in a kitchen, for example, or in a hallway going to a bathroom, because that's what we've heard from rooming house tenants, boardinghouse situations.

What we're in fact dealing with here is real life circumstances where there are emergency situations, where there are difficulties to be dealt with. Essentially having to deal with those for the safety of all the tenants is what's really at question here. The effort to come up with a fast-track eviction, which was cited by Dr Lightman in his report as being essential in these kinds of living arrangements—I mean, let's not forget that it was Dr Lightman who recommended that in fact there be a fast-track eviction process because he recognized that there would be problems in congregate living situations that needed quick attention. Now, how we do that is really the question.

**Ms Gandier:** Two things: If fast-track eviction is mandated, it's going to increase the fear threshold for everybody because they realize that they could just as easily be evicted if they happen to have a real bad day. Secondly, I think that housing providers are funded to provide housing for the hard-to-house population and that one of their responsibilities should be the alternative housing. Psychiatric survivors have crises. They have ups and downs. I have crises. There are long, long periods where I'm okay, but—

**Mr Cordiano:** Let me ask you this. I'm specifically referring to congregate living situations—rooming houses, boardinghouses—where a fast-track eviction would be necessary because in rehab centres or transitional homes, where it's not a permanent living situation, I think we're going to deal with that in the act differently. Now, that's not what Bill 120 says, but it's my view that they should be dealt with as distinct and separate from permanent living accommodation.

My view is that those rehabilitation centres should be excluded from the Landlord and Tenant Act. They are now for those who have their tenants live in that arrangement for less than six months. I think that doesn't go far enough. But what we're really talking about is rooming houses and boardinghouses.

**Ms Gandier:** You're talking about shared accommodation.

**Mr Cordiano:** Shared accommodation, congregate living situations. I think that if there was a way to do this so that there would be a temporary eviction for some kind of an assessment to be made, then that might be acceptable.

**Ms Gandier:** For most of the people I know who are living in that situation, there's no such thing as a tempor-

ary eviction. When you're on the street, you're on the street. It doesn't solve a problem to put somebody on the street. People don't just disappear.

**Mr Cordiano:** No, no, I'm not suggesting they go on the street. I'm saying that alternative arrangements be made and that person be removed for whatever period of time. We haven't determined that in detail, but we're just dealing with that now.

**Ms Gandier:** Yes, it's the time-out philosophy. You take time out and then go back to where you live, where your home is, where your address is—

**Mr Cordiano:** Well, for the safety of the other tenants, would you agree with that?

**Ms Gandier:** I agree, yes.

**Mr Cordiano:** Good. Thank you.

**The Chair:** Thank you very much for coming to see us today; we appreciate your presentation.

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#### WOODGREEN COMMUNITY CENTRE OF TORONTO

**The Chair:** The next presentation will come from WoodGreen Community Housing.

*Interjections.*

**The Chair:** You'd think it was 4 o'clock, wouldn't you?

Thank you very much for coming today. We would like you to begin your presentation by introducing yourself and your position within the organization, and then the next 30 minutes are yours.

**Ms Brigitte Witkowski:** Thank you. My luck to come at 4 o'clock today. I should have probably brought some jokes with me. I don't have the privilege of engaging in the humour between parties, so I'll engage in the humour between constituent and committee.

My name is Brigitte Witkowski. I'm director of housing for WoodGreen Community Centre of Toronto. I am also the director of housing for WoodGreen Community Housing, which is an agency, a non-profit housing provider, set up by WoodGreen Community Centre.

WoodGreen itself is a large multi-service agency in the east end of the city of Toronto. We have a 57-year history as a community-based agency meeting the needs of the people who reside in that area. Our ability to meet the changing needs of that community comes from the dedication of a board of directors, a dedicated core of volunteers, who currently are 250—and that's not just volunteers who show up once in a while; they are integral to any program that WoodGreen does—as well as a professional staff complement. I mention that only to say that yes, we are community-based, not just in lipservice but in reality.

I won't read everything that I've prepared because I do have a document that I gave the clerk and I'm sure that he distributed it to you.

**The Chair:** Each member has a copy.

**Ms Witkowski:** Great. I'll get to the point in terms of Bill 120. We have one praise because WoodGreen, out of its tradition of lobbying, said "Right on" around changes to the Planning Act to ensure that official plans, zoning



bylaws and property standard bylaws etc are revised so that they can no longer prohibit the creation of secondary or accessory units in one house.

As you will note, that is very minor. Please, please, don't grill me on this, because the most important thing is our concerns about the amendments to the Landlord and Tenant Act with respect to dealing with the rights of individuals who are living in shared accommodation, especially those individuals who are deemed to be vulnerable and hard to house, individuals who choose to take advantage of services with a shelter component.

We're really concerned about the rights of individuals, the requirement for due process in solving problems affecting the person, and the resultant fair and just treatment of individuals who make the choice for shared accommodation or for care services.

However, WoodGreen disagrees with the vehicle the government has decided on to address the issues. We don't believe that the Landlord and Tenant Act is an appropriate mechanism for them. I'll deal with two major concerns; the other ones I'll write in separately to the minister on.

Firstly, the concern with amending the Landlord and Tenant Act to include shared accommodations: In the mid-1980s WoodGreen established WoodGreen Community Housing to build and manage non-profit housing. As a front-line housing provider operating under the Landlord and Tenant Act completely, we are well aware of the limitations of the Landlord and Tenant Act even within apartment buildings which are composed solely of self-contained units.

WoodGreen currently houses singles who have a variety of life issues which have been profound barriers to their ability to both access and maintain safe, decent and affordable housing. Our mandate is to house singles who are developmentally challenged, physically challenged, who have histories of substance abuse and chronic mental illness, who are youth coming out of care, and—all of them have a similar characteristic—who are homeless.

In a nutshell, our mandate is to house the hard-to-house. All of them have to meet the eligibility criteria of the ministry—all of that is a given—and fundamentally can live independently with or without supports.

Let me tell you some stories. It's 4 o'clock in the afternoon and you've been listening to people going on and on for a long time, so let's go to it.

We have a tenant who's lived in our housing for over five years. Before securing housing with us, the tenant had a history of homelessness. The tenant, whom I'll call A, also has a history as a consumer-survivor, alcoholism and violence. Throughout A's tenancy, other tenants have endured the following behaviour: A screaming within their own unit, going out into the hallway and screaming and yelling abuse and profanities, banging on neighbours' doors, entering the housing office and screaming abuse at staff, accosting other tenants in the hallway and sometimes making threatening gestures.

This has been a five-year pattern that emerges in a cycle, depending on their own history. This behaviour,

when it occurs in A's cycle, is frightening to other tenants, who have their own vulnerabilities to deal with. What had made the behaviour pattern somewhat bearable to the other tenants is the fact that they each have their own self-contained apartment and, with management, they are part of solving tenancy problems through a variety of resolution processes.

However, A had crossed the line. A assaulted another tenant and one of my staff. Neither provoked the assault in any way. We started eviction proceedings under the Landlord and Tenant Act at the request of the assaulted tenant, not our staff. While we were waiting for the court date, A's behaviour did not abate, even though A had been arrested and charged and temporarily taken away.

What was the outcome of the Landlord and Tenant Act proceedings? The judge ordered that A retain their housing because it was Christmas and he wasn't about to evict anyone at that time of year, even though he agreed that the five-year history of A being given numerous opportunities to deal with their behaviour, the violence and the testimony of the affected tenant were all valid but were rejected because it was Christmas and he didn't want to do it.

Here's another story. We have another tenant I will call B, who also has a five-year history of living with us at WoodGreen. The same history of hostels and homelessness, of chronic mental illness. From time to time, B chooses to stop taking medication. Thus begins a slow turn to hearing the voices of the men in the ceiling, both within his unit and out in the hallway. From time to time, he stops tenants from passing under that point in the hallway, for their safety, and directs them to go in other ways or won't let them pass at all. Calling the police does not help. B's behaviour does not constitute enough of a danger for them to act under the Mental Health Act. It's a very difficult act to get any action.

Thus begins the anxiety of immediate neighbours. How it will end is really their concern. This year, the pattern ended in B's decision that the way to finally silence the men in the ceiling was to set fire to his bathroom. He had turned off the smoke detector and the heat detector in his unit; he used an accelerant on the toilet, set it on fire, and because we provide tenants with fire extinguishers, something came to light and he put it out and then he tried to kill himself. I won't put that in the written document, but that's not atypical.

Final story: We have a tenant C, a homeless youth, aged 16. C has decided he wants permanent housing with us. C has tried to make a break with the street, but it's very hard, even for a motivated youngster. C's friends visit and then there are fights that spill out into the hallways at all hours. Other tenants feel threatened and terrorized. They believe C when he says, "I'm trying to make the break." However, it's not his behaviour that's the problem; it's the guests he's not yet strong enough to control.

I'd like all of you in the room to put yourself in the following situation: You are living with these individuals in a shared accommodation. This is what we're talking about. WoodGreen is under the Landlord and Tenant Act. Let me remind you about that; we're regulated by the act



and we have self-contained units. But we are here deputing for those tenants who have to live with these situations daily in shared living. This is a very serious issue.

1610

Imagine the impact on yourself and imagine that you yourself also were dealing with a life issue that made you vulnerable. Wonder then what "security of tenure" means when typically eviction proceedings under the Landlord and Tenant Act can take anywhere from two months to one year. Think about shared living without self-contained units to mitigate the effects of the above serious breaches of reasonable enjoyment of the premises, as described in the Landlord and Tenant Act.

Our tenants, whose leases are governed by the act, find the behaviour patterns, when they occur, intolerable, but at least they are not prisoners in their own bedrooms, unable to find other routes of entry and exit to the building when they are about their business. A person living in shared accommodation is more vulnerable to such behaviour patterns. They do not have a protected space within which to live. While they wait for the due process described under the Landlord and Tenant Act to be fulfilled, not only are their individual and community rights infringed but also their safety and wellbeing. How, then, does a landlord uphold their rights, their safety?

Recommendations: WoodGreen is absolutely committed to working with individuals to secure their rights and live up to their responsibilities as tenants. We also believe that tenants, even in self-contained units governed by the Landlord and Tenant Act, are part of a community of tenants who also have rights and responsibilities. This is how we manage and this is why we manage in partnership with our tenants. Our belief in due process is so strong that we resort to eviction proceedings under the Landlord and Tenant Act only in the last instance. We have, in concert with tenants, developed resolution principles and procedures so that they themselves can address and solve breaches defined in the act and keep their housing.

The attempt of part I of Bill 120 to address due process issues to support security of tenure by extending the Landlord and Tenant Act to shared accommodation we believe will result in less security of tenure for others held hostage by individual behaviours that are oppressive and dangerous. Often the other residents move out and become homeless or poorly housed or end up back in institutions.

WoodGreen, over the last years, has suggested other routes to protect both the individual and the community living under one roof in shared accommodation, specifically intended for hard-to-house persons. I'd like to go over them one more time.

The first option: Demand that security of tenure be addressed and described so that there is a balance between the rights of the individual and the rights of the community similar to the one provided for co-op housing, which, as you know, is exempted from part IV of the Landlord and Tenant Act.

Explicitly recognize the rights of the individual to

retain their housing and the requirement for due process so that the individual does not summarily lose the right to the housing and that the community does not lose the right to have its concerns dealt with.

I think what I'm talking about is that there's already a principle of recognizing that there is diverse housing with diverse approaches to solving problems. Why not here? This is really an opportunity for some creativity. That was option 1. It didn't go with the legal clinics and the advocates, who had their own agenda around the Landlord and Tenant Act, which I respect.

However, I say it here for the record: Let me go to option 2. Let's be a little realistic; I don't know what the votes are. If the government decides that option 1 is not the route it wishes to pursue, then WoodGreen believes it is absolutely necessary to include within the act a special fast-track due process for cases of eviction on the grounds of section 109. I won't read the rest of it—I'm sure you've heard similar or others—but the principle is the same: a special fast-track process for people in shared living when behaviours are such that they endanger other tenants.

These recommendations, I believe, would attempt to balance the rights to safety of the other tenants in a shared accommodation setting and the rights to due process of an individual. I would just like to note that Ernie Lightman, in his report on unregulated residential accommodation, recommended that there be a special fast-track process to deal with behavioural problems. I'm sort of disappointed that an act that attempted to respond to that ground-breaking report somehow forgot a very important mechanism.

If I could just continue with the second concern—I have no idea of time and I don't want to keep you too late—WoodGreen also has a concern with amending the act to include premises occupied or intended to be occupied by a person for the purpose of receiving care services; a congregate living situation, in other words.

WoodGreen shares many of the concerns raised by advocates and Dr Lightman about inadequate protection of the rights of adults who want or require care services and who reside in such facilities. Invasion of privacy, lack of control over increases to care costs, which include shelter, lack of protection from being taken advantage of by other residents, inadequate conditions and no due process when faced with loss of the care service are all serious issues.

However, amending the Landlord and Tenant Act to include such facilities WoodGreen believes is inappropriate. Although convenient because it exists, it is the wrong tool to redress care service problems. The hard work lies in reviewing the legislation under which care facilities are funded and licensed, and making revisions that enhance the rights of the person choosing the care facility.

Legislation can define what the rights of the person are, under what circumstances the rooms they occupy can be entered, what the standards are for health and safety of premises, what the notice period is and the items to be increased, which affects the fee charge. That's all doable under existing legislation.



Furthermore, a due process vehicle to address resident behavioural problems, arbitrary treatment and unjust loss of service and shelter is possible, even if it isn't under court systems. The principle of due process can be enshrined. The vehicles and forms under which it is exercised don't always have to be the courts or the Landlord and Tenant Act.

What the proposed amendment ignores, in WoodGreen's view, is the view that individuals or their families may be assessing where he or she is on the continuum of care needs, balancing his or her desire for autonomy and independence with the need for care and stopping short of institutionalization. The primary focus is indeed services, of which shelter is a component. What individuals are buying is a service package offered by a facility, not just a self-contained apartment with portable supports.

WoodGreen Community Centre has a stake here. Let me be clear. The community centre's senior services have spent over three years with Housing developing a model of supported independent living for frail, elderly seniors. The model is an eight-bedroom suite with central living, dining and kitchen. Each bedroom has a bathroom and a small refrigerator. It balances privacy and autonomy needs with needs for community and an assurance that meals are prepared. Medication is monitored, personal care occurs and onsite staff are available to act quickly.

This model was developed out of a consultation with seniors themselves as what they saw as an option to stay within their community, maintaining their independence as long as possible before requiring a long-term care facility. It is intended for physically frail seniors, average age of 80, who cannot live by themselves.

Including this model under the Landlord and Tenant Act ignores that what is being offered is not permanent housing with security of tenure, but rather a choice about a continuum of care. WoodGreen fully intends that each person choosing this option sign an agreement or a contract spelling out their rights and responsibilities, how breaches are dealt with—meaning due process—and under what conditions he or she will be moved from one level of care to another. The issue here is safety and appropriateness in dealing with increasing needs due to increased frailty, cognitive impairment and mental health. The issue is balancing what happens to the individual and the other clients within that congregate situation.

Security of tenure, as understood in the act, would be a barrier in providing care. For example, if there were a Mrs Smith, she refuses to take her medication and doesn't provide a reason that can be evaluated by staff or medical support, the failure impacts on her behaviour and her health. Under the act, the landlord cannot intervene unless there is an emergency and with the assistance of police.

The landlord can reach out to family, but even then, and let's be clear, even if they reached out to the family, with or without the consent of the elderly person, if the family doesn't have power of attorney and the individual has made a decision about refusing medication, good luck. The landlord cannot give the family the entry to the bedroom. That is the law. Her refusal to cooperate with the care provider, under this amendment, is not grounds

for eviction or action, other than waiting for her to deteriorate to such a point you call in emergency services, who take her away.

**1620**

Our primary recommendation is to continue to exempt accommodation whose primary focus is care service provision. If the real intent is to deal with private and non-profit providers who violate basic standards of fairness and equity in resident treatment, then the licence should be revoked, funding withdrawn and the legislation governing them revised to deal with the abuses. That would be our 100%.

Our alternative is, we urge the government to bring some realism to the amendments and include another ground for eviction. WoodGreen would recommend that sections 107 and 110, dealing with early termination by landlord for cause, be amended as follows:

"a tenant ceases to cooperate with the care plan which is a condition for their eligibility in the shared accommodation with care services and/or a tenant's physical and mental frailty has progressed to a point that the shared accommodation with care services is no longer appropriate and safe."

Such a notice is given at the end of the occupancy term and requires a 60-day notice period. Then the landlord proceeds to court to gain the writ of possession. A further four months would pass before such a writ would be issued. In the meantime, the question begs to be asked, even with this proposed amendment to the amendment, what has been protected? What has happened to the best interests of the frail senior whose health has deteriorated?

WoodGreen believes more work needs to be done before the amendments to the Landlord and Tenant Act are made in these instances.

By the way, I've attached at the back a sample of what we have within our leases, which is a resolution process, which would be an indicator of what, if we're talking as an important principle, it could look like. It's another way of having a forum for dealing with legitimate concerns with an appeal process built in.

**The Chair:** We start with Mr Owens, then Mr Wilson and Mr Winninger, all in three minutes.

**Mr Owens:** Very quickly then, in terms of your concerns with respect to care homes, I guess my nervousness is that it has been represented by some organizations that because of the looseness of the care home stuff people will convert from boardinghouses to care homes and this could be problematic. Anyway, the question is, how much care do you see as being needed as a percentage, or how would you want to quantify what defines a care home versus another situation?

**Ms Witkowski:** I know the concern is that rooming houses that provide meals will say all of a sudden, "Aha, we're a care home." Let's be clear. Meals as part of one's tenure in a building are not the basis of care. I think we're talking about monitoring medication and there are standards and professional requirements of staff to be able to do that.

I think that's a discussion and a debate and there's already a lot of information out there, but my gut feeling



would be medication monitoring, dealing with physical frailty, helping people with their mental health crises in terms of supporting them to get into appropriate short-term responses, monitoring their health so that yes, as a previous speaker—I only caught a part of it—said, there would be an arrangement with some kind of appropriate long-term facility or a higher level of care, should that person no longer be able to benefit from that situation.

But the point is that they are not summarily put on the street, but rather they are moved to the next level of care they require. That would be my short answer to that.

**Mr Gary Wilson:** Thank you for your presentation, Ms Witkowski. What I'd like to know is whether you'd want the fast-track provisions that you're suggesting here to apply to all tenants regardless of where they live.

**Ms Witkowski:** Absolutely not.

**Mr Gary Wilson:** So you still would like to have a difference then between the tenants who are in facilities like yours. You see that's still acceptable.

**Ms Witkowski:** Absolutely. Tenants who are in self-contained apartments, I've been very careful not to—

**Mr Gary Wilson:** I guess what I'm getting at—

**Ms Witkowski:** Sorry, ask your question. Let me not guess.

**Mr Gary Wilson:** I just want to say that there are similar cases to what you describe here in other buildings, with other tenants and even in some neighbourhoods that we've heard, so we're just wondering why the people you describe should be treated differently from the people who appear to have the same characteristics in other settings.

**Ms Witkowski:** The difference is that the people I'm describing, regardless of where they live, if they live in shared accommodation where they have to walk outside of their bedroom to get to the bathroom, the kitchen, living room, dining room, go through a hallway to get to the door to the hallway to get out of the building, those people are more at risk than someone who can live quite well within a unit where all those facilities are behind the door. That's the difference.

It's not the person, if I might be clear, sir; it's the living context. Shared living, if all you have is a bedroom and you can never get to those other things where your food is, you can never have your friends in because of someone else's dangerous behaviour, that's a very different situation. If I could do an analogy, if you think of your own home and you had a number of people in your own home who were hitting personal crises and they'd been given every opportunity regardless, what's the level of threat that you would live with? I think that's the issue. It's housing types, sir.

**Mr Daigeler:** One of the real benefits of sitting on this committee and on similar committees is frankly to learn about all the good work that is being done by different groups across the province. My riding is in the Ottawa area so I'm not that familiar with the Toronto area and I'd never heard of your particular organization. But obviously you're doing excellent work over many, many years and you clearly are putting forward a serious concern while indicating your support for the government

bill in principle, and I think that's very praiseworthy. I just would like to understand better who you are. Who is behind you? Is this just a community group? Where did it start from?

**Ms Witkowski:** In brief, WoodGreen community housing was founded in 1986. WoodGreen Community Centre was founded 57 years ago. The community housing corporation is an outgrowth of the community centre to deal specifically with housing.

**Mr Daigeler:** Is it a church organization or what is it?

**Ms Witkowski:** Oh, 57 years ago it was a minister who worked with the community to deal with the outcomes of the Depression, and then the first service that WoodGreen undertook was actually day care and youth services and a gym. As the city itself changed and began to provide those services, WoodGreen did transitions and expanded, so now we do seniors. On the cover page—

**Mr Daigeler:** I saw that. Day care, and you're involved in all kinds of things and you're governed by a board of people voluntarily joined.

**Ms Witkowski:** A board of directors. It's a member organization. It's a certain specific geography in the city of Toronto, wards 7, 8, 9 and 10. I can't remember the provincial ridings. The honourable member Churley and the honourable member Lankin, that's their territory. It's a board of directors who are volunteers that governs the community centre.

**Mr Daigeler:** I just find that very interesting and I appreciate it. Certainly I think we should make sure that the work you're doing is not unnecessarily inhibited by any government action. You're putting forward a very valid concern.

**Mr David Johnson:** I'd like to think I'm a little more familiar with WoodGreen, having come from East York just north of you.

**Ms Witkowski:** Right. I was going to say that, mayor.

**Mr David Johnson:** Excellent work you do. In terms of the model that you talked about for the eight-bedroom suite, is that an active model? Do you have seniors' properties or buildings that operate on that?

**Ms Witkowski:** We currently have a 170-unit seniors' building. Within that, we created two eight-bedroom suites which are vacant at this point due to funding issues under long-term care reform, and we will have, in 1995, within another 150-unit family building, a 10-unit model for frail, elderly seniors. We're very concerned about the Landlord and Tenant Act being enforced here.

**Mr David Johnson:** I just might say, because I'll probably run out of time here, that your concerns are very valid. We've heard these concerns from other groups. I truly hope that they can be addressed and the remedies you put forward, I think, make a great deal of sense.

The suspicion I had at the first was that you were actually speaking as one who provides living in terms of complete units so that this bill was not going to impact on you quite as directly. I may still be right in that, I'm not sure, but I thought this is terrific that you would, having seen the problems. Yet you're still saying the



Landlord and Tenant Act should pertain to your structure of self-contained units. Yet you see the problems as a third party in a sense as they may apply to areas where there's congregate living or shared accommodation and that sort of thing.

1630

From that point of view, you have no axe to grind. It's just your experience, coming forward and saying there's going to be a problem and somehow we have to deal. Because people are living together it's different from a self-contained unit and somehow we need fast-tracking or something to be able to protect both sides: the individual, yes, but the group as a whole as well. It makes a great deal of sense.

I don't know if there's anything else you want to say. You've got 30 seconds. I don't know what to say because we have heard this kind of situation and today it's been sort of over and over again. It just makes so much sense that somehow we have to put an amendment through to allow those operators to carry on.

**Ms Witkowski:** I think you've understood. We don't have an interest in the first part of our concern. We don't care and we're quite happy with the Landlord and Tenant Act. We're quite happy. We think it's appropriate for self-contained units. I don't care who the person is. That's part of choosing to live in that option and struggling to live there. But in shared living, I think the burden is different.

My observation would be that if the act goes forward as it is to include shared living under the Landlord and Tenant Act with the way it currently operates, you are going to force landlords who operate that kind of housing to be more and more selective about who ultimately makes it into the housing, if only because they cannot risk the liability of being sued by the other tenants for the behaviour of an individual who is dangerous or they do not want to risk people becoming homeless in great droves. I think that is a part of the analysis that needs to be dealt with. I mean, we're committed to dealing with homeless people. That's our mission.

**Mr David Johnson:** Well said.

**Ms Witkowski:** Thank you for the opportunity. I appreciate this and also your attentiveness at 4 in the afternoon.

**The Chair:** Thank you.

BOB OLSEN

**The Chair:** The final presentation of the afternoon is from Bob Olsen. Welcome. The committee has allocated 15 minutes for your presentation.

**Mr Bob Olsen:** Thank you. My name is Bob Olsen. I'm a member of various advocacy groups. I'm a Cityhome tenant. I would like to thank you for this opportunity to speak to you.

I would like to respond to some of the things that have been said here. First, where do all the hard-to-house tenants evicted by these non-profit housing providers go? I'll tell you where some of them go: They come to live in my non-profit housing project. We have no care, no rehabilitation, no support services in my project. We do have protection of the Landlord and Tenant Act.

I live in Cityhome, South St James Town. Cityhome is one of the largest rooming house operators in Canada. Our project houses some of the hardest to house in the city of Toronto and it is done under the Landlord and Tenant Act. So when a tenant is evicted by the hypocrites, he may be able to find housing among us, thanks to the city of Toronto and the Landlord and Tenant Act.

Yesterday some of you were puzzled by the presentation by the Roomers' Rights Organization. I was the founding chairman of that organization. In my opinion, it is now a bogus organization operated by a non-profit rooming house provider. I will leave you to read my enclosed comments later. I skip now to halfway down page 2.

Bill 120 deals with the following questions: When is a person living in their own home and when is a person living in an institution? What rights does a person have in his own home? What rights does a person have in an institution?

Most of the landlords you have heard of believe that their tenants are not living in their own homes but rather that they are living in institutions. Thus, they believe that their tenants do not have the rights of privacy or tenure. The question here is, when is a home a home and when is an institution an institution?

Dr Lightman's report stated the basic premises of this legislation: (1) that a home is a home is a home and (2) that all persons—home owners, tenants and persons living in care facilities—have rights: a right to tenure and a right to privacy.

I have asked the ministry to inform this committee as to how many non-profit shared accommodation rooming house units there are in Ontario. I've been trying for 10 days to get that information. I still have not gotten it, but I hope the ministry will be able to come up with that information.

It is difficult, if not impossible, for a person to consider their residence to be their home if someone else has the authority to evict them without cause. Yesterday, Ecuhomes told you, "We operate under the Innkeepers Act." That act gives them authority to evict without cause and without official notice.

Keith Whitney Homes claims to be exempt from the Landlord and Tenant Act. When a tenant, Ron Payne, had difficulties with Keith Whitney Homes, he was told to appear before an in-house tribunal. He was told that he could not have legal representation. He was not told who his accusers were. He was not told what the charges were. However, he was found guilty and he was ordered to vacate his home.

Ron refused to leave; he wanted his day in court. Ron managed, with sheer determination and legal assistance, to hang on to his residence. He was harassed. Staff entered his premises when he was entertaining his girlfriend. He refused to be intimidated. They took the door off his room and removed all the furniture. He slept on the concrete floor. They changed the locks on the building. Others provided him with keys. He refused to leave until he had had his day in court. I have enclosed in appendix A Ron's press statement given when he filed



a complaint to the Human Rights Commission.

Finally, Keith Whitney Homes applied to the courts to be declared exempt from the Landlord and Tenant Act. Keith Whitney claimed that the housing that they provided constituted rehabilitation. They claimed that the housing itself constituted rehabilitation. It's in the court records if you want to get the transcript of the proceedings.

From the bench, Judge Jennings asked Keith Whitney's lawyers, "You mean that the tenants are rehabilitated whether they want it or not?" He also asked, "Are you saying that the tenants are washed in the blood of the lamb?" This is what Judge Jennings said from the bench.

Judge Jennings then ruled that Ron Payne was a tenant according to the Landlord and Tenant Act. He also ruled that Keith Whitney Homes was not covered by part IV of the Landlord and Tenant Act, which governs residential tenancies, because it was providing rehabilitation.

Judge Jennings' decision indicates, first, that the residents of Keith Whitney Homes are tenants under the Landlord and Tenant Act and, second, that they are not protected by part IV, which governs residential tenancies. Thus, the tenants of Keith Whitney Homes appear to be commercial tenants according to the act and thus can legally be evicted without cause.

Based on that decision, it is now impossible for many tenants to get a hearing in court over an eviction threat. I have attached summaries of the court's decision in appendix B.

Within a matter of days, non-profit housing providers across the province were claiming to be exempt from the Landlord and Tenant Act. Then, for-profit operators also began claiming to be exempt by the same argument. Neighbourhood Legal Services have already told you about 180 Sherbourne Street.

Evictions are often immediate. Occasionally, the tenant is told that he is evicted, and if he does not leave immediately, the police are called and he's charged with trespassing.

The law does not require that the landlord prove that he provides care or that he is exempt from part IV of the Landlord and Tenant Act or that he qualifies to operate under the Innkeepers Act. The onus is upon the tenant, when he's out on the street with his possessions, to prove that he is protected by the Landlord and Tenant Act.

The residents of Keith Whitney Homes live in fear of instant eviction. They know that they have no legal protection. They have seen the police from 51 Division remove many tenants without recourse to the courts. Keith Whitney residents were afraid to attend meetings that I or others arranged to inform them of their rights and how to obtain legal assistance. Many of them were afraid to be seen speaking to me or to other non-residents. They are afraid that they will be evicted like Ron Payne.

How extensive is this problem? Not all non-profit landlords evict tenants summarily. Only some tenants are evicted in this manner. But 100% of the tenants of landlords who claim to be exempt from the Landlord and Tenant Act live in fear.

What does it mean to live in fear of summary eviction? It means that tenants have no rights, no security of tenure, no right to privacy. The landlord can enter your premises at any time he wants to. The landlord could order you to take a bath or wash the dishes or stop smoking or attend religious services or to do whatever he wishes. As a user of Ontario's mental hospitals, I cannot exaggerate the humiliating and debilitating effect of not having the right to be yourself. You cannot refuse the landlord's instructions, as you can legally be evicted without cause. That's the law.

A fast-track eviction process would guarantee the landlords' power to threaten instant eviction without cause and guarantee their power to control the lives of their tenants. Our society applies this threat only to the poorest among us.

**The Chair:** Thank you. Questions? You've got about a minute.

**Mr Cordiano:** Let me just make this comment. I don't know if it's a question, but I will say this. We're not opposed to the application of the Landlord and Tenant Act with respect to the rooming and boarding-houses and rest and retirement homes. Obviously that's the thrust of the legislation. We support Dr Lightman's recommendations in that regard.

What we're attempting to deal with are a number of grey areas where the operators have told us they can't operate under those circumstances, particularly where you have rehabilitation centres. I think you would agree with me that those are different from rooming and boarding-houses. This is what we're dealing with, the question of whether you move to have a fast-track eviction process in a rooming house and boardinghouse that would not find people thrown out on the street, but that would remove someone from the premises who was a threat to other tenants. That's what we're attempting to accomplish when I ask questions in this regard. I don't think what we want to end up happening is that tenants be thrown out on the street. That's not what we support. But by the same token, I cannot support the ongoing danger that would exist to other tenants if you had an unruly tenant who was violent, who was threatening to other tenants. I don't think other people should have to live with those circumstances. That's really the thrust of our viewpoint.

**Mr Olsen:** Yesterday you heard Ecuhomes declare that they operate under the Innkeepers Act. They have self-defined themselves as being beyond the law. Landlords do not need to make any application to be recognized under the Innkeepers Act or any other act. They can simply declare themselves exempt from the law and then it is up to the tenant who's out on the street.

**Mr Cordiano:** They also claimed that they've never evicted anyone out on the street.

**Mr Olsen:** I know tenants who claim otherwise.

**The Chair:** Mr Johnson, you have maybe 90 seconds.

**Mr David Johnson:** Okay. One hardly knows what to do in that period of time. I guess the point that's been made by some operators is that if it's shared accommodation, there should be some method of fast-tracking. You used the word "instant" on the last page. I don't know



exactly what you mean by instant, but I don't think there's anybody in this room or even any of the operators that have made deputations here that would think of it as being sort of the same day.

**Mr Olsen:** Peter Bobyk-Huys made a deputation two days ago and he was instantly evicted, and I've seen it.

**Mr David Johnson:** All right, but he's under the current situation. What's being recommended is that where there's shared accommodation there should be a fast-tracking, because people are living together and somebody can cause a whole lot of problems for other people who share facilities. I don't think what's intended is sort of a "Here's a bag. Fill your stuff and out the door" kind of thing. From what I hear, it's the same process but the process is speeded up. As a matter of fact, I can recall a few deputants saying it should take about two weeks.

I don't know what your definition of "instant" is, but if the process, rather than taking three months to a year as some people say it takes now, took two weeks and people could be guaranteed their day in court within that period of time but also protect the many, do you have a problem with that?

**Mr Olsen:** There are many problems. We don't have the time to—

**The Chair:** Then we'll move on to Mr Winninger and Mr Fletcher.

**Mr Winninger:** You've presented yet more cogent evidence of the injustice of the present system, where residents of rooming houses fail to gain even the minimum protection that's accorded tenants in other forms of residential accommodation.

I would ask you, since we only have a minute or a half-minute: Should there, as some people today have suggested, be exceptions in facilities that provide recovery and rehabilitation programs, for example?

**Mr Olsen:** My concern basically is with such as Keith Whitney, where people have gone to get housing. They just went to get housing. They needed housing. Then one day the landlord decides to evict them, and at that point they are informed that the housing provider provides care and rehabilitation. That's the first time the tenant's heard about it, when they were threatened with eviction.

**Mr Winninger:** If you've got a case like the—oh, I see the Chair nodding his head. If you have a situation where quite clearly the purpose is to provide recovery and rehabilitation—for example, substance abuse—should there be an exception for people who share the same facility who may be lured into temptation by those who choose to break the rules and consume alcohol or use drugs?

**Mr Olsen:** I would refer you to page 2 of my deputation. I say, when is a person living in their own home? When is a person living in an institution? What rights does a person have when they're in their own home? Dr Lightman suggested that when a person is in their own home, they have the rights of security of tenure and privacy.

**The Chair:** Thank you, Mr Olsen. We appreciate you coming this afternoon and appreciate your remarks. As

I've told a number of deputants, the clause-by-clause review of this bill will begin in the week of March 6.

**Mr Cordiano:** I earlier made a request of the research assistant to look into the matter of the Ministry of Health and to ascertain whether there were in fact any submissions by the Ministry of Health regarding Bill 120 and its impact on service providers. I would like to get the Chair's view on this and the request that I'm making of our research assistant to do that, if it would be permitted by the committee.

**Mr David Johnson:** Sure. We all agree.

**The Chair:** Mr Johnson's obviously agreed.

**Mr Mammoliti:** I'm sorry. Let me just get this—

**Mr Cordiano:** Done. Too late.

**Mr David Johnson:** Hearing no disagreement—

**Mr Gary Wilson:** I just want to say that of course there was extensive consultation with both the Ministry of Health and the Ministry of Community and Social Services on this bill and there's continuing monitoring by those two ministries of what's happening with the bill.

**The Chair:** So can I take it from the parliamentary assistant that he will furnish the committee with the information of those consultations?

**Mr Gary Wilson:** I'd just like to know what the details are that Mr Cordiano would like.

**Mr Cordiano:** What I'm asking is what the Ministry of Health's view is on the matter of Bill 120 impacting on service providers and what effect that will have on their ability to continue to meet their funding criteria as outlined by the Ministry of Health. Obviously, they're being funded on some basis. That basis has to be the funding criteria on which that decision was made.

What impact is Bill 120 going to have on those service providers? They're going before this committee and telling us that obviously they're going to have difficulty meeting the objectives of their funding criteria, so I would like to know what the Ministry of Health's viewpoint on that is and how this will impact on them.

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**Mr Mammoliti:** We don't know—

**Mr Cordiano:** I don't want to hear from you. I want to hear from the Ministry of Health, and that's what I'm asking the legislative research, to make inquiries on behalf of the committee with the Ministry of Health and perhaps the Ministry of Community and Social Services.

**Mr Mammoliti:** Mr Cordiano has options at this point. If he wants to hear from the ministry, then there's nothing stopping him from writing a letter to the ministry and asking it for its opinion. If the request from Mr Cordiano is that the committee ask the ministry, I didn't hear that.

**Mr Cordiano:** No, for the research assistant to provide this committee with more information about what the Ministry of Health's role was and what the Ministry of Health's viewpoint is with regard to the impact of Bill 120.

If there is no information, then obviously the research assistant will come back and tell us that there is no information available, that in fact the Ministry of Health



did not have anything to say about the matter.

**Mr Mammoliti:** So what's your point?

**Mr Cordiano:** I want to know if the Ministry of Health has anything to say about the matter.

**Mr Gary Wilson:** I think as far as our committee is concerned, this is a Housing bill. We have to consider whether it meets the needs of the tenants, as we're setting them out in the residents' rights bill, from a Housing point of view. I think Mr Cordiano's free to, on his own, look into what the Ministry of Health's views of the issue are. But I think as far as the committee goes, we've got to decide whether this meets the terms of our reference, which is again Housing.

**Mr Cordiano:** I'll try to be concise and I'll try to be as accommodating as I can in what I'm saying, to help you understand.

We have service providers who have come before this committee and have told us that Bill 120 will impact on their ability to provide the essential services, as per their funding criteria, as outlined by the Ministry of Health. They're funded on a certain basis. That basis is that they meet certain objectives, and their objectives cannot be met because Bill 120 will preclude them from meeting those objectives. Therefore, their funding is in jeopardy.

**Mr Mammoliti:** So what do you want?

**Mr Cordiano:** The point I'm trying to make is that the Ministry of Health should comment on Bill 120 and its impact on these providers. In fact, if that is the case, then we have another reason to believe that there should be amendments to Bill 120. That directly impacts on our proceedings here. It's not such an illogical leap to make. It's very logical. It's a very practical thing that health service providers are going to have difficulty meeting their funding criteria.

**Mr Mammoliti:** I heard very clearly earlier from some of these service providers that they do have a concern with the way their facilities might run after Bill 120 would go through as is. I'm glad that Mr Cordiano has clarified it.

I think we need to be specific in terms of what we would want from the Ministry of Health. I think the point Mr Fletcher brings up is a good one as well. This is a Housing bill, but if you want to know how the ministry feels about a particular topic or a particular industry itself, then you need to be a little bit more specific.

**Mr Cordiano:** I'm being very specific. Let me try to clarify what I said, if I may.

**The Chair:** Mr Mammoliti has the floor.

**Mr Mammoliti:** Quite frankly, I don't see the harm in asking the ministry to write us a letter and tell us how it feels about it.

**Mr Cordiano:** Mr Chairman, let me be very—

**The Chair:** Mr Wilson is next.

**Mr Gary Wilson:** As you know, the process that led to this being put into legislation means that the ministries that are involved in it had to look at it and consider it. I think that the fact that it's come forward as a bill has already suggested that they think it meets their conditions, and we are looking at it as a Housing issue now. The committee is considering it from the point of view of what it does for accommodation.

**The Chair:** It seems to me we're circling a little here. I'm not exactly sure where we're going. But as the Chair, it would be possible that I could write a letter on your behalf to the Minister of Health asking for their comments regarding these funding issues and care issues. If that's agreeable and we can get an answer, or the parliamentary assistant could make available from Housing what they have received during their consultation from the Ministry of Health and perhaps the Ministry of Community and Social Services. Those are two rather reasonable ways to go on this. Agreed?

**Mr David Johnson:** When would the expectation be that that would come?

**Interjection:** Six months.

**Mr David Johnson:** Yes, six months. I heard six months from the other side.

**The Chair:** I'm sure the ministry would deal with a letter from the Chair of a standing committee in an expeditious manner.

**Mr Cordiano:** That's fine, Mr Chair.

**Mr David Johnson:** Would that be before or after clause-by-clause?

**Mr Cordiano:** Immediately.

**The Chair:** I of course can't make commitments on behalf of the ministry. I can only say I would write the letter.

**Mr Cordiano:** Would you include in that letter a request for urgent and immediate attention?

**The Chair:** We shall do that. I think we resolved this. See you tomorrow, 10 o'clock.

The committee adjourned at 1656.



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**Staff / Personnel:** Luski, Lorraine, research officer, Legislative Research Service



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Thursday 3 February 1994

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(Hansard)**

Jeudi 3 février 1994

**Standing committee on  
general government**

Residents' Rights Act, 1993

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 3 February 1994

The committee met at 1002 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** The standing committee on general government will come to order. The purpose of the committee meeting today is to deal with public deputations in regard to Bill 120, An Act to amend certain statutes concerning residential property.

MADISON AVENUE HOUSING  
AND SUPPORT SERVICES

**The Chair:** This morning our first presentation will come from Madison Avenue Housing and Support Services. Welcome. The committee has allocated to you one half-hour for your presentation. You may use that however you wish. You should start by introducing yourself and your colleagues, and indicate what position they hold within the organization.

**Mr Anthony McEvenue:** We appreciate the opportunity to be able to present to this committee. My name is Anthony McEvenue. I'm the executive director of Madison Avenue Housing and Support Services. Along with me are Alan Parker on my left and John Domegan on my right, people who live at Madison and use the services that Madison provides.

We'll provide a little bit of information about the agency, then address our comments around the amendments to the legislation and then, as I understand it, leave some time for questions you may have that we'll be able to respond to.

Madison is a non-profit organization that's funded by the Ministry of Health and, to a lesser degree, the Ministry of Housing to provide both affordable accommodation and also support to the individuals living in those accommodations. These are individuals who live in the Metropolitan Toronto area and have experienced or continue to experience mental health problems.

The accommodation that Madison provides comes in a number of forms. We actually operate 75 units which come in the form of either self-contained apartment settings or shared accommodation settings which are more typically known as group homes. The agency operates from eight different sites in total.

The other element of our service, which is support, typically described as assistance to individuals to manage their lives in the community, is provided, again, in a range of levels or degrees, from low support, perhaps described as visits from staff once or so a week, to high-support settings where staff may be available onsite on a

24-hour, around-the-clock basis. Within Madison, at least, the apartment settings tend to be low-support settings, most typically for individuals who have declared their interest and also ability to manage with a very low degree of support. They live in a more independent type of setting and are able to do that quite successfully, with very little need for support.

The shared household arrangements are typically places where individuals require, or at least have asked for, a higher degree of support to manage successfully in the community. These settings are typically found to have more of a rehabilitation component. By that we're describing the fact that people have expressed a specific interest and need to have staff available and some kind of opportunities to share settings with others so that they can get some help to cook, clean, manage the symptoms they may experience, and organize and manage their day and the tasks that are involved in living in a home on a day-to-day basis.

In terms of our comments around the amendments, first of all, Madison operates three apartment buildings at this point with approximately 30 self-contained units. At this time, we do adhere to the Landlord and Tenant Act in terms of an individual's tenure in that setting, so we very much support the principles of individuals having rights, as all others in Ontario do.

The amendments in areas which comment on the inclusion of the shared accommodation settings under the Landlord and Tenant Act we see as potentially seriously problematic. Some of the main reasons for this are that this would remove a significant degree of control from the residents who share those settings, and to a degree from the agency, to ensure that the environment is one that is safe and secure.

That safety and security is a fundamental element to the individuals' ability to live in the place and call it their home and use that setting for the purposes for which they came to Madison. The removal of that safety element in the event that one of the residents in the building posed a threat to the safety of either other residents or the staff on that site would create serious problems in that it could effectively render the setting a place where the people who live in it could no longer stay, given the threat to their safety that's posed by another resident.

This could also eliminate the accessibility of these services and this accommodation for others who, for example, may be in hospital waiting to come into the home, but would be unable to tolerate the environment, given the conduct that may be presented by another individual, conduct that would risk and security.

As well, the amendments that would include the shared accommodations under the present Landlord and Tenant Act would actually have implications on the selection process for agencies such as Madison, in that we would need to be much more careful in terms of the people we

brought into the program. People who may perhaps present some kinds of problematic behaviours that would disrupt the environment would be people we'd have to turn away, given that it would be irresponsible for us to expose the residents in a shared setting, as well as staff, to possible harm.

Some of the recommendations we would have: We very much support the concept of the Landlord and Tenant Act in the apartment settings, by and large because in apartments people are able, in the event someone does present difficult or threatening behaviour, to retreat behind the security of their own locked doors, and are able to continue on with their daily living functions like cooking, bathing and so on, with hopefully minimal disruption from others.

However, in the shared accommodation settings there's not the opportunity for retreat. People aren't able to continue on in their basic functions and their ability to have the kind of control all of us need to be able to have in a home is removed for them.

We support or promote the idea in shared accommodation settings that residents within that setting develop an agreement with each other that is grounded on reasonable bases, and that in the event an individual seriously contravenes the agreement, which would contravene safety and security, the group would be able to ask the individual to leave, perhaps on a temporary basis until such time as that individual can regain control of his or her behaviour, or if it's not resolvable, on a permanent basis.

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We also support the fact that agencies would need, in the shared accommodation settings, to apply for an exemption. Those would not be seen as automatic. A group would need to demonstrate that there are very real reasons why it should be exempt from the Landlord and Tenant Act.

Also, in the event that an agency or a group in a shared accommodation setting believes it needs to evict or discharge someone on a temporary or permanent basis, the agency would need to be accountable in those instances. We very much support the concept of people having rights and due process, and that they ought not to have their housing arbitrarily removed, but also there is a point where the rights of a group need to be taken into consideration from time to time over the rights of an individual who may, for whatever reasons, have been found not to respect the rights of that group.

**Mr Bernard Grandmaître (Ottawa East):** You say you operate in eight different sites?

**Mr McEvenue:** Yes.

**Mr Grandmaître:** Also, you have a 30-apartment unit that is under the LTA. The rest of them are not under the LTA and they're called shared accommodation.

**Mr McEvenue:** That's right.

**Mr Grandmaître:** What would be the length of stay in your house in the shared accommodation units?

**Mr McEvenue:** Right now it's officially indefinite, meaning that people could stay there as long as they are interested and need to in order to develop the skills they

need to move on. If they're comfortable in that setting, then they can stay on. The average stay at this point, in both the apartments and the shared living format, is about four years.

**Mr Grandmaître:** So under Bill 120, you would be affected by the six-month stay.

**Mr McEvenue:** That's right.

**Mr Grandmaître:** You are proposing an amendment or a change to Bill 120. What about people who contravene the house rules? How do you deal with these people? Do you simply call the police, or do you have a governing body that tries to resolve these problems?

**Mr McEvenue:** Usually the first step in that process is that the resident group living in that setting will arrange a meeting with this individual to outline clearly what their concerns are, what their issues are with his or her conduct. They'll also express, because often this is the case, their concern around the individual's welfare. Often it may be a result of symptoms which are emerging. They'll assist or offer their assistance to the person to address those, whether that's perhaps a visit or help maintaining their medication regimen or assistance to get out and enjoy themselves or something to that degree.

If that isn't helpful or if the individual isn't able to or chooses not to use those supports, then the group will again clarify what their expectations are, outline a plan as to how they'll support, and ask the staff for their assistance to contact that individual's support system outside the house—social workers, doctors and so on—to try to engage their support to help the individual regain control of their conduct so that they're able to stay in the house. A fairly significant effort is extended in that regard.

If, after those interventions, the individual persists in posing a threat to others, then he or she would be asked to leave. The agency would not ask him to leave until that process had taken place and, by and large, the resident group sharing that setting strongly endorsed that this action be taken.

The other thing too is that most typically this would not be on a permanent basis. The idea would be that after a break from living in the house, the resident group and the individual would both have time to think about alternative strategies, different ways of perhaps approaching the problem so that hopefully the person can return to the house, and most often, that's been the case. They've seen their doctor. They've developed different strategies for dealing with whatever has occurred that has resulted in their actions, and then made agreements with the people at the house that they'll return and that this will be different in terms of their actions, and the resident group often learns of things it can do differently to support that return.

With that option, rather than having to simply dehouse somebody permanently, it means we're able to strategize and do some work to help the person learn about and develop ways to live in the community.

**Mr Grandmaître:** Let's call them evictions or forced evictions. How many forced evictions did you have to deal with in the last 12 months?

**Mr McEvenue:** One.



**Mr Grandmaître:** Most of these people would consider the Madison Avenue complex as their permanent address.

**Mr McEvenue:** That's correct.

**Mr Grandmaître:** Are these people referred to you or do they simply walk in?

**Mr McEvenue:** They're referred to us, most often by a doctor or a social worker who will work in the psychiatric department of a hospital, as well as other agencies, community mental health agencies that are working with an individual who feel as well that the person would benefit from our kind of service.

**Mr Grandmaître:** How many people are you housing right now?

**Mr McEvenue:** Sixty-eight.

**Mr Grandmaître:** How long have you been in business?

**Mr McEvenue:** Madison has been funded for approximately 15 years now by the Ministry of Health. Madison operated and was incorporated in 1976, but the staffing and the service was developed with volunteers.

**Mr Grandmaître:** As to the fact that you're being funded by the Ministry of Health, has anyone from the ministry consulted you on Bill 120 and its possible changes?

**Mr McEvenue:** Not at this point. The Ministry of Health is presently working on guidelines that relate to this very thing, to the Landlord and Tenant Act, and has been promoting the concept of more permanent housing. That's the direction they're moving in, again one that we support except we feel that there are certain instances where there are qualifiers required.

**Mr Grandmaître:** When you say funded by the Ministry of Health, what would be the percentage of your operational budget coming from the Ministry of Health?

**Mr McEvenue:** It's about 87%.

**Mr Grandmaître:** Where's the rest coming from?

**Mr McEvenue:** From the Ministry of Housing.

**Mr Grandmaître:** So you're totally funded by two ministries.

**Mr McEvenue:** Right. The only other area of revenue we have, of course, is from the rent that the residents and tenants pay, and that amounts to probably about 3% to 4% of our overall costs.

**Mr David Johnson (Don Mills):** You've indicated that you haven't been consulted by the Ministry of Health. We've heard these concerns and these concerns are certainly prevalent, I would say. We've heard a number of them before. Have you had an opportunity, through this process at all pertaining to Bill 120, to put your views to, I guess it would be, the Ministry of Housing in this case.

**Mr McEvenue:** Not at this point. The ministries of Housing and Health have been consulting with a group of which we're a member which is the Ontario Federation of Community Mental Health and Addiction Programs on a sort of parallel track to this. The ministry, by and large, has had formal or informal discussions with agencies

around the kinds of concepts it has been working towards on permanent housing, but not specifically around this amendment.

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**Mr David Johnson:** The Ontario Federation of Community Mental Health and Addiction Programs was before us yesterday. They presented quite an extensive set of recommendations. I'm going to try to play them back to you and just see what your views might be on them.

First, as I can recall, pertaining to self-contained units, they agree with you that the Landlord and Tenant Act should apply.

Then, in terms of shared accommodation, they broke that down into two sectors. If there was no rehabilitation or essentially no care present, then they felt there should be some sort of fast-track mechanism in cases where there was disruption to the program, to the other residents. In a case where there is a strong rehabilitation component, where rehabilitation perhaps is the essence of the program, in that case the unit should be exempt from the Landlord and Tenant Act.

I wasn't quite sure where you fit in. Is that essentially what you're asking for? Are you asking for something a little different than that?

**Mr McEvenue:** Fairly similar. We don't believe they should be exempt outright. In other words, a rehabilitation focus program perhaps should be exempt, but in our minds they would need to apply for that exemption and demonstrate that there are real reasons for that purpose.

**Mr David Johnson:** In the case of your program where there is shared accommodation, would you describe rehabilitation as being the focus or would you describe accommodation being the focus of that program?

**Mr McEvenue:** Most typically out of most of our shared settings there is a rehabilitation focus. In the other settings there's not so much staff; it's more accommodation. Actually, Alan lives in one of those settings. It's a cluster arrangement where three or four people will live on a floor and share a washroom, living area and so on. Staff visit from time to time but not very frequently. People are clearly there more simply to have a place that is safe and secure and where they can share that setting with others.

**Mr David Johnson:** So what you would be suggesting then for your shared accommodation program—did you say there were about 38 of the units, something like that?

**Mr McEvenue:** Approximately.

**Mr David Johnson:** Would you hope that an amendment would be put in that would allow you to approach the ministry and to convince the ministry that you have a program that should be exempt from the Landlord and Tenant Act?

**Mr McEvenue:** That's right.

**Mr David Johnson:** What sorts of criteria do you think would be reasonable for the ministry to establish, such that if you met those criteria, then you should be exempt?

**Mr McEvenue:** Probably there would be something

that would weigh the balance of people's interest in using the service; in other words, that they had expressed an interest or a need to develop some skills around community living, or some other kind of indication that they really are not able to manage outside of that kind of a setting with either shared living or a certain amount of assistance from staff professionals as well as their peers. Those are the first two things that come to mind.

**Mr David Johnson:** There certainly will be more time to think about it. We're very sympathetic to the plight that you're in and we're looking. We're not sure what route the government is going to go. We hope very much that it goes some route that would allow you to operate your programs and not fall under the consequences.

One of the consequences you mentioned was that you'd have to be very much more careful in the selection process. I assume that you have a waiting list and that there are people who want to get into this program, but you would then, if the bill went through the way it is, be put in the position of having to not select certain people because they may be a risk. I don't know what that would mean.

**Mr McEvenue:** That's right.

**Mr David Johnson:** Where would they go in a case like that?

**Mr McEvenue:** Well, that's it. The other thing that happens that's a real concern, that's probably a longer-term concern with the Landlord and Tenant Act is that we've actually had the experience of persons who had serious problems in terms of their behaviour, very threatening to others, who basically literally have cleared the house, where people have gone back to hospital. There's nowhere else they can stay.

They come here because they really don't have any other options as to where they live. They need the staff support. They need others. They'll go back to hospital and have literally been in hospital for months, not able to return to the house. Had those persons effectively not decided to leave, they could have not only de housed those people but permanently, by virtue of the Landlord and Tenant Act, blocked up that resource from use from anyone else in the community.

It also has a serious impact, particularly, on the sensitivity around the community and its perception of these kinds of services. We've been highly successful to date on at least assuring the community that we're able, capable to maintain for the resident group and for the community at large a reasonable degree of stability and so on.

That kind of activity could really decimate the confidence the community has now and its perceptions of people with mental health problems and so on and so forth. There are a lot of longer-term implications that come into play as well.

**Mr Gary Wilson (Kingston and The Islands):** Thank you, Mr McEvenue, for your presentation. Certainly, your background and experience, having both the self-contained units as well as the shared accommodation, is particularly useful. I find that the questions that have

been raised now are very helpful too in focusing on what we're trying to understand here about the circumstances.

As far as the Madison program is concerned, I'm interested first of all in the issue of confidence. As you say, you like to make sure that the neighbourhood is confident and the community at large of course, and that's what we are dealing with, an issue of confidence as far as the rights of the residents of the kind of accommodation that you're offering are concerned. Part of the reason we're introducing the bill is to make sure that these rights are extended to people who, in unregulated settings in particular, have been subject to abuse of one kind or another. That is well laid out in things like the Lightman report. So there has been, I think—

**Mr McEvenue:** Certainly.

**Mr Gary Wilson:** —broad understanding of what has to be done here and we're just trying to find the best way of doing it.

Perhaps to follow up again, when you have people referred to you now, how many have you turned away in the last while for the shared accommodation setting?

**Mr McEvenue:** By and large, recently we've been at full occupancy at most of the settings anyway.

**Mr Gary Wilson:** You mean you haven't had anybody referred to you in a while?

**Mr McEvenue:** We have, but either we've had to put them on a waiting list or some of them have looked at one of our shared living arrangements, but it has shared bedrooms and they're not interested in that. There's a number of apartment buildings available now in social housing and people are very much interested in those. Right now, for the largest proportion of people, that's the accommodation style of choice.

**Mr Gary Wilson:** I took you to mean from your description of the shared accommodation program that it's not as rigorous, say, as some. You seem to say you can take the rehab services—you might call them rehab at least—if you want but you're not required to. Is that right?

**Mr McEvenue:** Basically, at least in some of the settings, staff have a flexible amount of hours in which they may or may not come to the site. There are some core activities, for example, a weekly meeting that the staff may attend, which would be for an hour and a half. Other than that, they're available but if they're not required by the people who live there, then they simply won't come.

**Mr Gary Wilson:** So you wouldn't try to remove anybody because they weren't taking part in the program?

**Mr McEvenue:** Oh, not at all.

**Mr Gary Wilson:** Your average stay is four years, I think you said.

**Mr McEvenue:** That's right.

**Mr Gary Wilson:** That means that some people are there for a considerable length of time and I think you would say that is their main living place. In that sense you would expect that the provisions of the Landlord and Tenant Act would apply, or could apply because this is what we're looking at.



**Mr McEvenue:** By and large, that's correct. We very much support the fact that the home and security of tenure is one of the most significant elements, not only as people's basic right but also in their ability to stabilize, to have a foundation from which to grow, whatever that might be. It's not only in terms of rights, but also if I can use the word programatically, that's something we believe is a fundamental element.

The only exemptions we're really talking about are in the instances where, given the nature of our service to the people who live there and the reasons they've come there, it's not just to have housing; it's very much for some other kinds of supports and so on. We're only talking about exemption in the instance where someone contravenes the basic safety and security of the others.

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**Mr Gary Wilson:** I'd like to focus on that now because you have a process that you outlined at some length. I'm not quite sure how it would differ under the LTA. You could have the same kind of process in dealing with someone who you felt was jeopardizing the program.

**Mr McEvenue:** For example, we had an experience in the past where an individual in a group living arrangement physically attacked one of the residents and staff with some kitchen utensils and a knife as well. What we did at that point was contact their doctor and asked the individual—required, in fact—to leave the setting.

We had called the police at that point in time and the police didn't feel there was anything they could do. The person had settled down. They hadn't observed anything in particular. The other residents were too frightened to communicate or state the case to the police at that time. Our word at that point wasn't enough. That individual would have been in that house and the impact of that on the staff and on the residents in that setting—

**Mr Gary Wilson:** Is that someone you did evict?

**Mr McEvenue:** No, we asked them to leave temporarily. Had we not done that, they wouldn't have got to the hospital.

**Mr Gary Wilson:** But asking them to leave temporarily, did you have to force them to leave? In other words, why couldn't the same thing occur under the Landlord and Tenant Act? They do something that you consider to be threatening to other residents and you think they need a different kind of care, obviously. Why could you not do exactly what you did under the present arrangement?

**Mr McEvenue:** Basically, they could say they're not going to leave.

**Mr Gary Wilson:** They didn't in this case, though, isn't that true? They did go. You didn't have to force them to—

**Mr McEvenue:** Not in that instance, but we have had others where people said they simply weren't going.

**Mr Gary Wilson:** So that happens even now, then.

**Mr McEvenue:** Yes.

**The Chair:** Thank you very much for coming to see us this morning. For your information, we will be considering this bill in a clause-by-clause review commencing the week of March 6.

Before we move to the next presenter, I would like to bring members' attention to a number of items that are being distributed to them.

One is the interim summary of recommendations the researcher is compiling. She tells me she's up to date till Thursday of last week. All members have that.

There has been some discussion of the Lightman report here and we've made certain that each member has a copy of the Lightman report. They may now have two, but at least we're sure they have one.

The last thing I would like to bring to your attention is that the clerk has placed on your desk a report of the subcommittee. I don't think we'll deal with that right this moment, but I would like all members to read it and if we get a moment a little later on in the day, we'll adopt it, provided it's suitable, of course, to the committee.

#### SUMMIT HALFWAY HOUSE

**Ms Kay Davison:** My name is Kay Davison. I'm the executive director of Summit House. With me is Mr William Ortwein, presently a resident in our program; Mr Charles Ollivera, also a resident in the program; Mr Frank Weir, also a resident in our program; and Mr Wayne Chandler, the vice-president of our volunteer board of directors.

We are very pleased that we have been given the opportunity to respond to Bill 120, which makes amendments to the Landlord and Tenant Act, because we are really deeply concerned about the impact of this bill on our rehabilitative housing program.

Summit House is a non-profit charitable organization which provides supportive and rehabilitative residential services to people with mental health problems. Our program operations are funded by the community mental health branch of the Ministry of Health, which is 79% of our total budget. The housing component is funded by the Ministry of Housing and residents' fees which are 21% of our total budget. Presently we have five housing programs in the Halton region.

Although the housing we provide fulfils a vital basic need for decent and affordable shelter, which is of course essential for clients to attain and maintain stable mental health, the primary purpose of our program is rehabilitation and not accommodation. The fact that nearly 80% of our funding is for program operations confirms the importance given to the rehabilitative element.

The residents in all our homes are encouraged to provide input and to participate in the decision-making process with respect to the program and the services we provide.

It is our understanding that under Bill 120 rehabilitative programs are exempt from the Landlord and Tenant Act if the average length of stay of the occupants does not exceed six months and if the home is not the principal residence of the majority of the occupants of the house.

We respectfully request that consideration be given to amending Bill 120 as follows:

(1) That rehabilitative and supportive housing programs with flexible length of stay and which provide homes that are the principal residence of occupants be excluded from

the Landlord and Tenant Act; or alternatively,

(2) That where the primary purpose of housing programs is rehabilitation and not accommodation, organizations be able to apply for exemption from the Landlord and Tenant Act.

The justifications for these recommendations:

(1) Length of stay: It is essential that the length of stay in housing rehabilitative programs for recovering mental health patients remain flexible and be based on the individual needs of the clients.

Six months simply is not long enough to prepare people for independent living. A six-month time limit would impose unrealistic expectations on residents and create pressure on people to leave before they are prepared for such a move.

If people are worrying about losing accommodation within six months of commencing the program, they cannot concentrate on learning the skills they require for reaching their goals. In fact, our transitional program was changed from one year's duration to a flexible length of stay because one year, for many clients, was not sufficient time for the rehabilitative process. In addition, the stress caused by a short time limit often resulted in clients being readmitted to hospital.

We believe a service should meet the varying needs of clients, rather than asking consumers to fit into one rigid program.

(2) Principal residence: All the individuals coming into our supportive and rehabilitative housing programs are either leaving family homes, apartments or boarding houses or are being discharged from hospital. The homes they move into while participating in the rehabilitative programs are their principal residence while they are working on skills to be successful in future permanent housing.

As well, individuals living in Halton have to have a principal address to be eligible for general welfare assistance and family benefits allowance.

(3) General justifications: The primary purpose of rehabilitative and supportive programs is rehabilitation and not accommodation. We believe that in such programs both the rights of the individual and the rights of the group need to be considered while the acceptance of the rehabilitative program needs to remain central in focus.

Including these programs in the Landlord and Tenant Act will eliminate the rehabilitative nucleus of these programs, which includes the resident group defining guidelines by which they choose to live.

The main objective of rehabilitative services is to provide programs designed to promote independent living in stable and affordable supportive housing. In fact, our major funding source, which is the Ministry of Health, evaluates the rehabilitative outcome of our program on a regular basis and ongoing funding hinges on the mandate requirements being met.

If programs such as ours are included in the Landlord and Tenant Act, the accommodation will become the primary purpose and the rehabilitative and supportive

nature of the service will be seriously weakened.

This virtual elimination of rehabilitative programs will have a profound detrimental effect on individuals presently participating in these programs and on people hoping to access the services in the future.

After researching what programs are available in their community, individuals themselves often choose Summit House because they've recognized that at this point in their recovery, they lack self-motivation and need assistance and support to enable them to achieve independence and to lead a more fulfilling lifestyle.

These people also realize that the major factor that will enable them to cross the bridge from hospitalization to independent living is the knowledge that they have to follow the rehabilitative program.

Presently, residents agree to abide by the program policies; for example, sharing of chores and cooking, engaging in some activity during the day and participating in individual goal planning etc. Under Bill 120, individuals could opt out of the program because these actions would not justify eviction, and our homes would very easily just become rooming homes.

It is vital that people have an array of options. In Halton, the choices for consumers are already very limited. It would be a tragedy if the few supportive housing programs that are available were eliminated.

I now turn the microphone over to Mr Bill Ortwein, who would also like to address the committee.

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**Mr William Ortwein:** Good morning. My name is William Ortwein. I have been a resident of Summit House since last July. I briefly would like to give you a little bit of my background. It's not to impress you but merely to advise you where I'm coming from.

I served seven and a half years in the Canadian army. I served overseas with the United Nations in Gaza in the Suez uprising. For that, I later on was awarded as a part recipient in the Nobel Peace Prize. I also had affiliation with the royal family and received citations from the Queen Mother, Her Royal Highness. I later served 18½ years on the police force as a police sergeant.

During that employment I received a head injury while working on the drug squad. I came down with epilepsy. The form that was inflicted upon me was a sharp blow to my head. I later on in life, at a very late age, became addicted to alcohol and became a practising alcoholic. With the combination of my disease of epilepsy and alcohol, I wound up in a hospital, dying. I went through a treatment centre and later on I went through such a facility as where I'm staying today. I'm truly grateful to be there.

Some of the things that I've found Summit House has given me that it would be not be able to give me if it was covered under the Landlord and Tenant Act with Bill 120, are that it gave me the willingness to go on and the responsibility that Billy is now a concerned citizen. There's love in this home. It's just not a rooming house.

They made Billy be responsible today. Today, I have chores to do and things like that. I have people around me who truly love me and understand Billy. They support



me with my alcohol addiction. I get counselling from a counsellor who's there on a daily basis.

The other residents of this home are people suffering with disabilities too. There's a lot of love here. It's not a rooming house effect.

I would like to share with you today that as a result of all the support I've got from Summit House, I'm celebrating one year's sobriety. It's quite a milestone in my life, a lot more than even as a recipient of the Nobel Peace Prize. I would not have been able to achieve this goal if it wasn't for such a facility as Summit House. I feel from my heart that if we were just part of the Landlord and Tenant Act, we wouldn't be able to get the support that this man has made in myself and that others will need to follow me. For that I'm truly grateful, and I hope you'll give that understanding. Thank you very much.

**Mr Cameron Jackson (Burlington South):** At the outset, Bill, congratulations on your journey so far and continued success.

Kay, thank you for your presentation. I'm familiar with your facilities. Most of them are resident in my constituency, so I wanted to raise several questions about the implications of changes to your program.

First of all, Bill, I'm pleased you made two references in your comments to the most important word that comes with "rights" that's never uttered with "rights." Very few people have said it when they've come here, but you have, and that is that with rights come responsibilities. My fear is that in this legislation it only talks about rights and has abandoned the notion of responsibilities. I think your presentation brings many things, but it also causes us to refocus on the point you're appealing to this committee to understand, that there are also responsibilities to this form of community living and a shared, intensified community living. You put it in more eloquent terms than I can, because you come from that environment at Summit House.

I'd like to ask you some questions about the notion of transitional housing, that people come to Summit House because they've been somewhere else and hopefully some day, they will go somewhere else.

**Ms Davison:** That's right.

**Mr Jackson:** It becomes a transition based on their journey and their progress and their self-confidence. But if you look over your shoulder at where people have come from, our community hospital has cut its mental health beds from 20 down to 10—that's where people are coming from—and if you look at where you hope some day people will go, the numbers of supportive housing units with more independence—so you're not involved in community cooking, but you have the special needs cases, if I can call them that—their numbers have dwindled dramatically. In fact, most of the housing that's being built is for low-income family units, and independent living for individuals—those numbers have dropped dramatically. We've got pressure at both ends.

Perhaps you might comment about the concerns you have, since you're receiving clients from waiting lists. The alternative to failure in the program isn't a pleasant

one, because of what's available, either ahead in the community or to fall back to a hospital setting.

**Ms Davison:** This is absolutely true. A lot of our clients, the majority, come from a hospital either or a very dependent family relationship, the family realizing that they now tend to look after them too much probably. But once they leave our program, it has been a concern of mine that there is nowhere to go. There's a serious lack of available units.

That is why we have started our outreach program. It helps a little bit when people leave the program now. We now send people into their own homes, which is bridging the gap a little but not nearly enough. But we feel it is helping a lot. As you know, Cam, in Halton there's very little supportive housing. In fact, there are only two programs. There's ourselves—we're in Burlington, Milton, Georgetown—and one other which is in Acton, and that's the total Halton supportive, non-profit housing. It's not very many. There is a desperate need to help our client population.

**Mr Jackson:** Just briefly, your message to this committee today has a lot to do with not just focusing on Summit House, but to look at the whole range of housing and health responsibilities that deal with persons in transition.

**Ms Davison:** Especially, as you say, now that they're cutting down the beds, you're going to get a lot of people on the streets again, as it happened in the 1970s, unfortunately.

**Mr Jackson:** The final question has to do with, have you talked with the regional office of the Ministry of Health about the implications of this legislation on your program? We appreciate that not everyone has come forward to help the committee understand the ratio of funding. We have not heard from the Ministry of Health at all about this bill. You've underscored the importance of our having a dialogue with the Ministry of Health, because it's funding your program component.

**Ms Davison:** When you think that 80% goes towards program operations, and the majority of that is salaries, I feel if we come under the Landlord and Tenant Act—people say: "Look, we want you to come. We want you to make us get out of bed. We want you to motivate us." But they know that if they don't have to, they won't. Because of the medication, because of the illness, they very often lack motivation. What would be the point of having a program in that case? The Ministry of Health won't be able to justify maintaining it and it's going to be the clients who will suffer dreadfully because of that.

1050

**Mr Derek Fletcher (Guelph):** How long has Summit House been in operation?

**Ms Davison:** For 13 years.

**Mr Fletcher:** I see. With many of the houses that have come to present, I'm amazed at how it appears that they've become so institutionalized over the time: funding from the ministries of Health and Housing. I know that the idea of letting people out of hospitals seems like a good idea, but it just seems that they've been replaced with places such as Summit House.



**Ms Davison:** Our homes certainly aren't institutionalized, in your sense.

**Mr Fletcher:** No, that's just the way it seems, though.

**Ms Davison:** But they really are not. Would either of you guys have comments on that? We run them as much like a home as possible. They certainly are not treatment.

**Mr Fletcher:** Bill, you seem to be doing well and I'm very pleased to hear that. What if you want to get rid of someone who's a pest at Summit House, who you just don't like? Do you have meetings to evict people?

**Mr Ortwein:** One thing we do have is that our communication is at very high level. We have meetings within our own residence, within our own group, and we have them with the counsellor and we also have them with our director. Our feelings are shared and at such time that it is shared, a decision is made for the best for that resident. There has been occasion where that resident has had to be back to hospital and it's been looked after and the care is needed there.

I would just like to say that the love that's shared in this home is hard to explain. It's not like the rooming houses, and I would like to say it's not institutionalized.

**Mr Fletcher:** The only way we can make any recommendations is to hear what is going on and how this bill could impact on certain places. One of the reasons for the public hearings is to listen, to find out what is happening and what your perceptions are going to be.

Just one quick one as I know that there are other people who wish to have a chat about this, and that is, as far as your program is concerned, how many staff people do you have at Summit House and how many residents?

**Ms Davison:** We have a total of 27 residents who are actually in the residential program, we have about 15 on our outreach program, and because we have two homes which are 24-hour support, that entails quite a lot of staff. We have about 12 full-time equivalents which include administration staff and everything.

**Mr Fletcher:** Volunteers?

**Ms Davison:** The only volunteers we have are on the board of directors.

**Mr Wayne Chandler:** The board is comprised of individuals—some survivors, some consumers—who come from all backgrounds ranging from homemakers to middle management in business, to a professor at the university etc, and they meet on a volunteer basis.

**Mr Fletcher:** What if someone didn't want to do the program? Suppose I were an alcoholic and I wasn't drinking. I just didn't want to get out of bed. I didn't want to participate. What would happen to me? But I was off the bottle; I was off the booze; I wasn't drunk.

**Mr Davison:** All residents sign an agreement. It's explained very carefully to them that we are program first and accommodation second, because there are many places people can go which aren't a program, if they just want to lie in bed all day. The understanding is that they will follow the program. If they don't want to follow the program, they're taking up a bed for someone who does want to follow the program.

**Mr Fletcher:** What if I were progressing at my own

level without your program, because I was in a setting where other people were progressing and it was rubbing off or something.

**Ms Davison:** If you were progressing, then there wouldn't be a problem.

**Mr Fletcher:** I wouldn't have to do the program.

**Mr Davison:** You've got to do your chores because you can't expect your fellow residents to do your chores for you. We can't afford a maid service. You've got to do your share of the cooking. Each house is different, actually. We try to tailor the service to suit everybody's needs and some houses have higher expectations than others. People do have to meet the expectations of the house. If they don't want to, they can go somewhere else.

**Mr Gary Wilson:** Thanks very much for your presentation. It certainly helps us in our deliberations here, and especially your testimony, Bill; it's good to hear of your success.

I just want to assure you, contrary to the impression you might be left with from Mr Jackson, that the Ministry of Health is well aware of the elements in this bill, partly because it has to be since it's amending acts under its responsibility. But beyond that, the provisions in Bill 120 that refer to unregulated rest homes spring from the Lightman commission, which they participated in, in all levels, in making presentations, but also participated in an interministerial committee evaluating the results of the commission. We see the results in this bill. Certainly there are strong elements of Health here. There have to be because we all recognize that a lot of the services the Health ministry provides are affected by this.

**Mr Joseph Cordiano (Lawrence):** Let me thank you for your presentation today, because I think it's very thoughtful and I'm going to accept it in the dignity with which it was given. Not to make light of that in any way, shape or form, we are dealing with a situation here that I think needs some real intervention on the part of the government to make amendments to the legislation.

I woke up this morning and said to myself, "I think today's going to be a good day on committee." Actually, I'm detecting that the tone that I'm getting from across the floor is that—you know what? I think they're going to change their minds about this bill. I think they are going to make some changes. I think the minister is listening. I could be wrong, but I'm sensing that the members on that side are understanding what we're saying, especially the deputants who are coming before us. I think it's sinking in. So there is a little hope that there might be some changes to this bill. We certainly will be making recommendations to address the concerns you've expressed today.

One question I have for you is with respect to the Ministry of Health. Did anyone in the Ministry of Health consult with you about Bill 120?

**Ms Davison:** No.

**Mr Cordiano:** They never mentioned Bill 120 before it was tabled in the Legislature? They never talked to you about it or its possible impact.

**Ms Davison:** No. Every program has a consultant it deals deal with, and I sent her a copy of my brief and



explained to her what I was doing. All I've been told is there are going to be meetings and then they'll get back to us. Other than that, I haven't heard anything.

**Mr Cordiano:** Dr Lightman's report—we each have a copy of that this morning; I have a few of these copies. He says in his recommendation 14 very clearly that rehabilitation centres should qualify for an exemption under the Landlord and Tenant Act, and this is very clear, and that a definition should be prescribed in the legislation for what is therapeutic and rehabilitative, and that this should be given legal definition and an exemption from the Landlord and Tenant Act should be made. Obviously you agree with that.

**Ms Davison:** You see, currently they're saying it has to be for six months' duration and it is exempt, but from our point of view, six months would be—

**Mr Cordiano:** A totally arbitrary time line.

**Ms Davison:** It would be ridiculous. It takes a year to stabilize some of our residents.

**Mr Cordiano:** Do you agree that the route to go is to determine a legal definition?

**Ms Davison:** Yes.

**Mr Cordiano:** What if in the interim that was not possible? I've been talking to people and they've suggested that it's going to take some time to draft a definition, that it requires further research and further work, and that therefore it would be appropriate perhaps to set a time line for the time being until that legal definition could be drafted carefully. Consultation should take place to determine what that definition should include. Would you agree with that?

**Ms Davison:** Yes, I would.

**The Chair:** Thank you for coming to see us this morning. We certainly appreciated your presentation. For your information, the clause-by-clause review will begin the week of March 6 and that is actually the first time that amendments can be made to the legislation.

1100

#### SUBCOMMITTEE REPORT

**The Chair:** We have about a minute. Do members want to deal with the subcommittee report?

**Interjection:** Yes.

**The Chair:** Would someone like to move the subcommittee report?

**Mr Gordon Mills (Durham East):** I've a question, Mr Chairman.

**The Chair:** We need it moved before we can talk about it. Mr Mammoliti.

**Mr George Mammoliti (Yorkview):** Do you want me to read the whole thing, Mr Chair? Is it necessary?

**The Chair:** I believe it's necessary.

**Mr Mammoliti:** I move:

(1) That the committee commence public hearings on Bill 95, An Act to provide for the passing of vital services bylaws by the City of North York, on Monday, February 14, 1994. The hearings are to commence at 1 pm and allocate 20 minutes per group, followed by clause-by-clause consideration of the bill at the con-

clusion of the day's hearings.

(2) That the committee commence public hearings on Bill 21, An Act to amend certain Acts with respect to Land Leases, on Tuesday and Wednesday, February 14 and 15, 1994, beginning at 10 am to 12 noon and 2 pm to 5 pm and that each group and individuals receive 20 minutes presentation.

(3) That should clause-by-clause consideration of Bill 95 not be completed on Monday, February 14, 1994, that it be continued on Thursday, February 17, 1994, until completion, at which time clause-by-clause consideration of Bill 21 is to commence.

**Mr David Johnson:** On a point of clarification, Mr Chair: When it doesn't specify the completion time on a particular day, what's assumed, 5 or 6, or do we go until finished?

**The Chair:** I assume 5.

**Mr David Johnson:** Can we assume that your assumption is the one that will hold?

**The Chair:** My assumption is 5. The committee can always move an extension of that, but we're only authorized to sit till 6 in any event, I believe.

**Mr David Johnson:** So 6 is the latest?

**The Chair:** So 6 is the latest; the practice has been 5.

**Mr David Johnson:** On Thursday it doesn't specify a start time, but that would automatically be 10 o'clock.

**The Chair:** That's right.

**Mr Mills:** I'm reading this Monday, February 14, in paragraph (1), and then in paragraph (2) it says Tuesday and Wednesday, February 14 and 15. That's a little mistake, is it not?

**Clerk of the Committee (Mr Franco Carrozza):** Yes, it is: February 15 and 16.

**Mr Mills:** Moving along to paragraph (3), I just want to get some idea about the time allocations for these bills because it says here "that should clause-by-clause...of Bill 95 not be completed on Monday," it will be continued on Thursday, "at which time clause-by-clause consideration of Bill 21 is to commence." What I want to know is the process of this and the time allocations for this.

Just suppose that we go into Bill 95 and then we go into Thursday, and after all that's done, then you're saying that we will consider clause-by-clause of Bill 21. Suppose the time allocation has run out. What happens to Bill 21?

**The Chair:** Bill 21 can be considered in committee during the normal course of committee meetings during the legislative session.

What has happened here, just to be helpful, is that the committee was presented by the government House leader and by the Legislature, through motion, with two private members' bills to be heard during the intersession. What the subcommittee decided was that each of them could have two days, which seemed fair to the two private members who were involved, each member having the same amount of time. It appeared that perhaps one of the bills wouldn't require the full two days. In the event it didn't take two days, Mr Mammoliti kindly agreed to give up some of his time to the other private member,

only in the event that his was already completed. So that's how that worked.

**Mr Mills:** I don't want to prolong this much more, but it's my understanding that these two were to be completed in the time allocation to this committee, that it wasn't going to go back in.

**The Chair:** No, that is not the motion of the Legislature. There is no completion. This is not closure. This is not time allocation. This is just providing some time.

**Mr Mills:** What I want from you, Mr Chair, is some assurance that Bill 21, if it's not finished, is not an issue any more. I need that assurance. I'm reading this and I'm left in a bit of a quandary. I have great concern about this, believe you me.

**The Chair:** You would know that the Chair cannot give you that assurance. The committee works by way of motion of the committee itself and under the rules and motions of the Legislature. I cannot possibly give you any kind of assurance to that effect. It's technically impossible.

**Mr Mills:** My colleague Mr Wessinger was here yesterday. If this is going to present some problem, I can tell you that his concerns will be triple what mine are. I'm worried about this process.

**Mr Mammoliti:** Mr Chair, I've noted here that Mr Mills has pointed out an error and I'd like unanimous consent to make a friendly amendment so that it reads properly. On the second point, where it says "Tuesday and Wednesday," the dates are wrong. It's February 15 and 16, a friendly amendment.

**The Chair:** Thank you. I think that amendment is accepted. Further discussion of Mr Mammoliti's motion? Agreed? Carried.

#### SAINT MICHAEL'S HALFWAY HOMES

**The Chair:** The next presentation this morning will come from Saint Michael's Halfway Homes. Good morning. We appreciate your being early. You've been allocated one half-hour from the committee for your presentation. We would appreciate it if you'd begin by introducing yourself, your position within the organization and your colleagues, and then begin.

**Mr Fernando Garcia:** I would like to introduce my company here. I am the executive director for Saint Michael's Halfway Homes. This is Mr Gordon Walsh, Matt Talbot Houses director, and Gerry Hourihan, St Michael's Houses director. Mr Ross Gray is a client who has volunteered to come with us.

I am going to do a brief introduction. A 15-minute submission is a short time to express our concern—

**The Chair:** You have half an hour.

**Mr Garcia:** Yes, but the first 15 minutes—

**The Chair:** You can use it as you wish.

**Mr Garcia:** It's sufficient; I say that—in relationship to Bill 120 and the negative effect it would bring on an important segment of the community: the recovery homes services. Therefore, we will try to formulate the issues as concisely as possible and go directly to the matter.

1110

We would also like to state that our observations to

Bill 120 should not be interpreted as opposition to the general intention of the bill, which we understand is to protect the tenant from abuse and extend the tenant's rights as much as possible.

Saint Michael's Halfway Homes was founded in 1974 "to assist and support those who seek to achieve and maintain a life free of addiction to alcohol and/or drugs in an atmosphere of caring." This is from our strategic planning document.

The agency was incorporated under the provincial authority of the Ministry of Consumer and Commercial Relations as a non-profit charitable agency.

The first house opened in 1976. It was intended for the service of younger men, 18 to 50 years of age. It expanded to a second house in 1988. They are known as St Michael's Houses and have a maximum capacity of 26 beds. They have a structured rehabilitation program with group therapy, individual counselling and community housing support. The rehabilitation program is fully funded by the Ministry of Community and Social Services. The shelter component of one house is funded by the Ministry of Housing.

In 1978, the agency opened the first house for older men, 50 years of age and over. It expanded to a second house in 1983. They have at present 42 beds and are known as the Matt Talbot Houses. This program for older men offers mostly supportive services through a variety of components intended to help the clients to improve their physical and emotional health. The Ministry of Health funded the operation of this program during the first three years. It was followed afterwards by the Catholic Charities Council, the Ministry of Community and Social Services, and lately the Ministry of Housing.

**Mr Gordon Walsh:** Our organization is primarily involved in recovery, rehabilitation and care-giving programs. We are carrying out this in residential settings, and that is the reason why we are highly concerned with Bill 120. The housing component, independently of how important it is, we feel should not be legislated in such a way that interferes with or impedes the achievement of the prime objective or purpose of our programs.

Our organization has always subscribed to the community health and prevention concepts and other topics that we have learned are desired ways to provide health support. Thus, being a part of the addiction recovery sector leads us to argue for exemptions and regulation, perhaps through special legislation.

In the nearly 18 years that this organization has assisted alcohol- and drug-dependent clients, the importance of them having and being guaranteed what are commonly called "safe" or "dry" houses has become very evident to us. Many addicted clients require and welcome an atmosphere where their recovery and rehabilitation will not be threatened by any covert use of alcohol or drugs by other clients. It is only possible to ensure this setting when the counsellors can confront and negotiate a speedy departure with a client who might otherwise jeopardize and threaten the sobriety of others who are living in the same setting.

It is not appropriate then in our view to place recovery



homes such as ours under the Landlord and Tenant Act or to include our clients in the residents' rights bill, Bill 120, when the reality of the rehabilitative or recovery process establishes a quite different relationship between the staff and the clients than does the one between the ordinary landlord and tenants. We feel there is a substantial difference and we have to wonder if the lawmakers had what we feel is very pertinent and necessary information when they proposed these changes, which could effectively convert clients in recovery homes into being simply regular tenants.

**Mr Gerald Hourihan:** There are two main areas of the proposed act that we need to stress: the items relating to principal residence and the average length of stay. Our clients, with few exceptions, are homeless men. Some might even be classed as street people who have spent several years in city hostels and detoxification centres. Knowing this, it would be almost impossible for this agency to serve the population according to the proposed changes to the act. One of our objectives, besides the support of sobriety goals, is to prepare clients for independent living. In the case of these clients, we know from the start that they require a longer period of time to prepare them to qualify for and search for and hold good accommodations.

The proposed eviction process of Bill 120 would be entirely unsatisfactory in terms of our ability to manage our programs. Even the provision of a so-called fast-track process would be unsatisfactory for the continued operation of the program and the safety of the other clients.

The rules of our houses are simple: No alcohol, illicit drugs or intoxicated people are allowed into the houses. The reasons for terminating the residency are contracted at the time of admission and all other conditions are freely agreed upon by the clients themselves. This has been the way we've operated for 18 years and the way our funders have approved as an acceptable delivery service.

There is another matter of concern to us: the right of the manager to limit the access of others to the rehabilitative or recovery house where people are trying to consolidate sobriety or a life without drugs. It has to be clearly established in the act or we also would encounter other problems in delivering our services.

**Mr Garcia:** Before closing this written submission, I'd like Mr Ross Gray here to tell us about his experience in one of our houses that he volunteered to tell to us. His words are going to be a kind of very simple way and clear way to express differently the same thing we are trying to explain to you.

**Mr Ross Gray:** I come to this meeting as a client. I have for the last 20 years been trying to come to terms with my dependency on alcohol. I've been to treatment institutions, therapy groups, Alcoholics Anonymous, everything I could reach out for in the city, but I was unable to maintain a lengthy period of sobriety until I came to Matt Talbot Houses two and a half years ago.

I found the residency, the fellowship of the tenants, the program, a missing link that had been missing in my life. I'm happy to say at this time that my health has returned, and a more positive attitude towards life. I want to build

on that experience and move back into society and get back into my old profession, which was advertising.

None of this was possible for me until I came to Matt Talbot Houses, so I speak for myself and the other residents on how effective their program is.

1120

**Mr Garcia:** I think we expressed very clearly the major obstacles that not only could cause us frustration, but could put deliverance of our programs into serious jeopardy. We respectfully request your wholehearted support to allow special exemptions for agencies such as ours in this forthcoming legislation.

**Mr Gary Wilson:** Thanks very much for your presentation. I want to begin by just getting some clarification on a point. It says here that you are incorporated "under the provincial authority of the Ministry of Consumer and Commercial Relations as a non-profit charitable agency." I was wondering whether you are incorporated under the Charitable Institutions Act.

**Mr Garcia:** Yes.

**Mr Gary Wilson:** You are incorporated under that?

**Mr Garcia:** Yes, the non-profit and charitable institutions act; I guess it's called the uses and gifts act.

**Mr Gary Wilson:** You see, it might be possible that you are exempted from Bill 120, because that is one of the acts that is exempted, but you can follow that up.

**Mr Garcia:** We had some doubts and some hesitation when we read the changes coming. We believe that one of our branches, that's St Michael's Houses, looks like it can clearly be exempted if it complies with the six months' limitation and so on, I guess, and the principal residence also.

In the case of the Matt Talbot Houses, that sort of long-term residence, we have some doubts, that we can encounter some problems. That is the reason why we are here, but I am very happy to hear that. Certainly, one can to follow up on that.

**Mr Gary Wilson:** Perhaps, though, we could still discuss some of your experiences, which would be helpful in any case, because it has arisen in accommodation like what you provide and the services you provide. One of the things I'm wondering is what processes exist now for dealing with problems that arise among the residents; for instance, in behaviour that you would consider to jeopardize the program.

**Mr Garcia:** I'd like Gordon to explain that to you.

**Mr Walsh:** If a man is accepted to live at the Matt Talbot Houses, which is the side of our agency that cares for older men, 50 years of age and older, one of the points of his contract is that he will agree not to use alcohol or any kind of substance while he is with us. If, for example, he goes out and has a drink in a bar and comes back to the house and we smell it or we know of that situation, we immediately then, as per his agreed contract with us, confront him and suggest that he will have to go somewhere until he gets sober.

Our first choice is the detoxification centres in the city, of which there are five, associated with various hospitals and also the Addiction Research Foundation. We have a

very close working relationship with all of these particular centres. We're on the phone to them quite frequently and we know their staff and they know us. Generally the man, in most cases, will agree to go there and we will arrange for that man, so we don't put him on to the street, that sort of thing.

**Mr Gary Wilson:** You say "in most cases," though.

**Mr Walsh:** In other cases they will decide to go to a friend or to some other place. That is the process of asking them to leave. That's a temporary situation. Once the detoxifying process has finished, we will then meet with the resident and we will discuss the situation in terms of whether this couldn't be helped or whether it was intentional. Sometimes, depending on a man's situation, it may be a way of really just wanting to get out. There are a whole lot of factors involved. It's a very human situation.

In the vast majority of cases we take the men back. Certainly if it happens a few months after the fellow has come in, we will take the man back and re-sign a contract. If it happens very frequently again, we may have to say to the fellow, "Well, perhaps you're not ready for this particular setting, so it's best to move on."

**Mr Gary Wilson:** How long does that take? You say that the detoxification process could be taking a couple of months?

**Mr Walsh:** No, the detoxification can be in a few days, depending on, say, how intoxicated the person was.

**Mr Gary Wilson:** Right, but the process of working them back into the program, how long does that take?

**Mr Walsh:** We would take him back immediately after those few days. If, for example, he went out again and had a relapse within a week, we might have to consider then asking him to move on.

In some cases, we will attempt to refer him to another agency, if he wishes. In some cases, they decide they want to move to some independent living situation, to an apartment or a room. The proviso is always given, "If you feel you'd like to give it a try in another few months, please reapply to us." That's been our particular practice.

**Mr Hans Daigeler (Nepean):** We appreciate your presentation. Obviously, the same point has been made numerous times now by similar organizations. On the other hand, there were a few coming from the same kind of background and they said: "We should have the same rights as everybody else. The right for housing and for proper process, due process, is a right that we don't abdicate just because we have a certain problem." They say the Landlord and Tenant Act—at least the government is arguing—does leave the option open to expel someone if need be. I'm just wondering how you would be reacting to these kinds of comments.

**Mr Hourihan:** What it reminds me of is somebody who has had their driver's licence suspended for drinking and driving claiming rights to have their licence back. What we're talking about in our particular program is a program, not housing. If they came to us for housing originally and that's all they were looking for, we wouldn't have invited them to come in the first place. When they come, they come freely to work on a pro-

gram, to work on their issues specifically dealing with addictions, not dealing with housing and long-term living issues.

We work with them on how to then start setting up their future around housing issues and how to find a place for themselves in the future, but we don't see ourselves as a housing institution. We see ourselves as an addiction treatment facility and I think that's where there's a little bit of confusion. We start crossing lines here.

I don't see it as a particularly cruel and harsh treatment to ask somebody to leave a facility where they're jeopardizing a bunch of other people who are gathered to work on specific issues if they're refusing to work on those issues. They're excluding themselves in the process, we're not excluding them. If they come and say, "I want to work on addiction issues," and tomorrow they start drinking, they're saying, "I don't want to work on addiction issues; I want to work on drinking."

I think there's a self-exclusion process and that's really how we normally work with the client, to try to explain to him that he's really excluding himself. We're not telling him to leave. He's excluding himself from his conditions of his contract. Does that answer your question?

**Mr Daigeler:** It certainly answers my question. I just hope the government side is listening.

**Mr Grandmaître:** The fact that you are a rehabilitation home and you provide care and that this bill will be impeding the progress or the continuation of your programs: What is the future of Saint Michael's Halfway Homes if no exemptions are provided?

**Mr Garcia:** We are here out of concern that those changes are going to be applied in our recovery homes. We have, really, the hope that it's not going to be the case. For 18 years, not under this act—have been accepted and we have been negotiating with our clients contracts that are all going to become illegal, I guess, after the act. Recovery homes in Ontario are recognized by the government, but we do not really have special legislation that can protect the future of the organizations. So it's a matter of concern that we really ideally would like to have special legislation.

You're going to hear from the association on February 7 that we have been trying to get approval of tenders so we can get, really, some classification and some recognition, because the concern about this matter came from an inquiry that was based on 50,000 people living in for-profit lodgings in Ontario. We are not in that case and we are caught in the middle there. We believe the legislation is not clearly done.

1130

**Mr Grandmaître:** Can I clarify one thing? I think it was Mr Wilson—I forget exactly—who asked you if you had obtained a certificate of exemption, if I can use that word, through the Ministry of Consumer and Commercial Relations and also the federal government. Does that mean I can write you a cheque and you will give me an income tax receipt?

**Mr Garcia:** Yes.



**Mr Grandmaître:** So you are federally incorporated as well.

**Mr Garcia:** Yes.

**The Chair:** We appreciate your doing that.

**Mr Garcia:** We are exempted, yes, and we receive donations. We can issue those receipts.

**Mr Grandmaître:** Are you paying municipal taxes?

**Mr Garcia:** No, we are exempted.

**Mr Grandmaître:** You're exempt through a private member's bill?

**Mr Hourihan:** No, under the act under which we are incorporated.

**Mr David Johnson:** I'd like to thank you very much for your deputation, for the good work you do, and say that the case you put forward is one of common sense. Certainly, it's got to be addressed and something has to happen to allow you to carry on your good work.

From what I hear you saying, if the present bill goes through in its current form, then the exemption, the six months, would not work because people would be there longer than the six months and the principal residence wouldn't be of any assistance, to you, so you wouldn't be exempt. Down the road somewhere, if one of the residents decided that notwithstanding your program, he liked the place to live, that it was a wonderful place to live that but he didn't want to be involved in the program any more and wanted to consume alcohol or drugs, you couldn't evict. You couldn't evict, period, because that's not a provision under the Landlord and Tenant Act. What then would be the impact on your program if that happened?

**Mr Hourihan:** The major concern we have is that our particular organization focuses on what might be classified as street people, people with no fixed address in the first place. What would happen to us in a scenario like you present is that we'd have to gradually move out of that area of service. We'd have to start servicing clients who came to us from another fixed address so that we wouldn't have that issue. They would have to come under certain circumstances which in the end would mean we'd have to stop servicing the clientele we're primarily focused on today.

That's already happened in our business. There have already some major shifts away from dealing with street people by some of the facilities, for some similar reasons. How do you get rid of somebody under these conditions, or you're seen as an ogre from a housing point of view because you move somebody out of the facility in 24 hours.

Already the number of services have become restricted for people living on the streets. I think the long-term effect of this particular approach would be simply to stop servicing street people.

**Mr David Johnson:** When I look at the first page of your deputation, you mention that the rehabilitation program is funded by the Ministry of Community and Social Services. I would think it would be of great concern to the Ministry of Community and Social Services that the programs that, as you say, you're giving

today you'd have to move away from and get out of the service, or move to a different area.

**Mr Garcia:** Yes, I assume that.

**Mr David Johnson:** Has the ministry expressed any of these concerns to you or have you had the opportunity to talk to the ministry about them?

**Mr Garcia:** How can I hide that? I think you should know that they are concerned. They are concerned because they know they are funding us, and so if tomorrow these new changes apply to us, they know we're going to be in tremendous trouble.

**Mr David Johnson:** So the representatives from the Ministry of Community and Social Services have expressed this concern to you, have they, about this program?

**Mr Garcia:** We talked to them and people in our delivery manifested that concern, yes.

**Mr David Johnson:** It's interesting that they have voiced that concern about this program.

**Mr Garcia:** We trust that the ministry that is trying to produce these changes, which is the Ministry of Housing—I assume, because we went to some consultations that represented the same objections to the Ministry of Housing—is going to talk to the Ministry of Community and Social Services and produce a kind of satisfaction with this matter. We have to hope that.

**Mr David Johnson:** Are the ministry representatives you're discussing with are representatives you deal with on a day-to-day basis? Who are the people from the Ministry of Community and Social Services?

**Mr Garcia:** We talked to supervisors in the Ministry of Housing and the Ministry of Community and Social Services.

**Mr David Johnson:** That's an interesting aspect.

Later on in your brief, and I'm looking at the last page, you mention "the right of the manager to limit the access of others to the rehabilitative or recovery house." Are you talking about people who are not actually in the program? Are we talking about visitors? If so, that's an interesting aspect because I suspect under the Landlord and Tenant Act that would be impossible as well.

**Mr Garcia:** Right.

**Mr David Johnson:** Maybe you could tell us a little bit about what sorts of problems would arise there if you weren't exempt.

**Mr Walsh:** Mr Johnson, it's important for us, and I appreciate that's a very good question, to remember that we are dealing with the world of addictions and addicted people.

I should say that we are very pro-client. No matter how much we object to certain aspects of this proposed act, we are very pro-client and I think we would defend that to the last if anyone ever said we weren't. We have concerns: For example, especially I guess, our major concern is that somebody would come to the residence, not living there, not involved in the program, but intoxicated, or under the obvious influence of some sort of substance. If we can't ask that person to leave or deny him or her entry to the building, that's a difficult situ-

ation. Why is it difficult? Again, in the world of addictions and relapses and "triggers,"—the word is used for relapses—a person using a substance in the presence of another addicted person can be a trigger in some cases.

I don't know if it's appropriate but I wonder if Ross would like to comment himself, as a person who has used our services for the past two and a half years, how he as a client would feel with the presence of somebody in the house who was using. I feel he would be the best to continue that answer if that would be okay with you.

**Mr Gray:** In a recovery program we're concerned when somebody has a slip. We want that person to get treatment and we would try to direct him in that process. It's unsettling to the people because we're reminded how we're not that far away from that situation ourselves, so it really is unsettling when somebody shows up in that condition. We want them to get help and it's just not a good scene.

**Mr Garcia:** Obviously, we don't agree with the unrestricted right of a client to accept visitors and, as managers, we claim the right to restrict the people coming to the house.

**The Chair:** Thank you very much for coming to see us today. We certainly appreciate your being a little early. We will be looking at this particular bill in clause-by-clause review during the week of March 6, which for people unfamiliar with the legislative process means that's when the amending of the bill can begin to happen.

1140 TIM MACKENZIE

**The Chair:** The next presentation is by Mr Tim MacKenzie. Welcome to the committee. You have been allocated 15 minutes for your presentation. The members always appreciate some of that time to ask questions of you. You may begin when you're ready.

**Mr Tim MacKenzie:** Let me explain who I am. My name is Tim MacKenzie. I'm a student and I'm studying in social working. I'm presently living in Ecuhome, which is a Catholic project. I'm a visually impaired person; I'm blind. This legislation, Bill 120, concerns me because it takes away the things that I've been enjoying under Ecuhome for three years.

I've been with the project and I feel that it's giving me self-confidence as a blind person. It's helped me to develop many skills as far as confidence in confronting when dealing with other people in the house is concerned. I feel my rights will be taken away. With giving rights to people, there's also taking away rights from others. I'll give you a situation: I'm a non-drinker and if we live in a wet house, if somebody was to come into the house and abuse alcohol or drugs, that would affect me, because that's my environment that I live in. That's one of my concerns of safety. I feel my rights are being ignored.

Because I am visually impaired and I'm in a social working program, it's not easy for me to get information and to have things read. Ecuhome will help me to develop and to read material, if necessary. That's very helpful for me as a blind person. I find that this housing project has given me independence without depending on

somebody for everything that I need, so it's giving me my own independence.

I really believe Bill 120 will affect me and affect other residents. The people I live with—I live with five other people—are concerned as well. They're concerned that they're going to lose out. I think the ruling is very fair. We sign a contract when we first enter the premises and we're told very clearly that illegal activities are not allowed and stuff like that is what you're to abide by. I feel that when you enter a contract like that, you should abide by the contract. I think that in the provisions, most of the stuff is very useful. There are a few things that probably could be changed, just like anything. There are always a few things that don't coincide with others.

But I believe that what Catholic Ecuhome is doing is good and I like it under the Innkeepers Act. Whether I like it doesn't concern you people, but it's really been helpful for me. That's what I wanted to express to you people, that I hope that as decision-makers you will consider my side of the story. I now have a safe environment. It's low-income and I also have people to talk to and I have help if I need help.

I'm in this province by myself; I don't have any family here. I have lots of friends, but they live around; they're doing their own thing. They don't necessarily have time to read things for me and other things that they don't have time for. With Ecuhome, they always seem to manage to have the time to do something for me if I'm in a bind. It's nice to have that kind of support. That's another reason why I think Bill 120 is not right for Ecuhome. It may be in other situations, where other people feel their rights have been taken away. I feel that my rights haven't been taken away and I feel very confident with the way they're running it.

I suppose that's all I have to say for now.

**The Vice-Chair (Mr Hans Daigeler):** We really appreciate your taking the effort to be with us. Mr Cordiano is first with some questions.

**Mr Cordiano:** Thank you for making your presentation today. I would like to say to you that what you think, your opinion, is very important to us in our deliberations. It will, I believe, make a difference. It makes a difference to me, and that is important.

I think at this point we don't have a whole lot of time to go into much detail, but obviously you have a fear of a variety of things in Bill 120 which would affect your living situation. Some of those would include just what might take place when a house such as yours is disrupted by one of the tenants and Ecuhome would be unable to deal with that under the Landlord and Tenant Act. Obviously, that would be a major concern, as the bill is drafted right now. Would that be correct?

**Mr Tim MacKenzie:** That is correct.

**Mr Jackson:** I very much appreciate you putting in perspective the notion that giving additional and new rights always involves someone else having to give up some rights. You appreciate that because you are about to experience it if this legislation proceeds. I wanted to thank you for putting a finer point on the aspects of life for you with your different ability to others who may



accommodate with you. The implications for opting out of a program that reflects your unique needs you indicated might affect your safety.

You probably don't have bad experiences at your current residence, but you can imagine what they might be if certain persons are less sensitive or have not agreed to the responsibilities that are implicit in living with people who are challenged differently.

Can you give us some additional examples of the kinds of issues around safety which you referred to? That is a matter of concern to me. If an alcoholic goes off the wagon, then that is something that's self-inflicted and may cause ripples with other members, but in your case, it's a little different.

**Mr Tim MacKenzie:** In my housing, there was a problem with somebody who was mentally ill and was basically not able to keep care of himself. Ecuhome helped him to get the help that he needed. But there was always a nervousness in the house that he would use the stove late at night and that he might leave the stove on.

I was very nervous over this situation. Having our own rules in the house, we were able to implement that he was not to eat late at night, and if he was to eat late at night, he would use the microwave, because it wouldn't cause a fire, more or less. Ecuhome came in and helped us to manage the situation.

I feel that if somebody was to come and destroy the stuff that I have, I'd be very upset, since it's my safety. Being a low-income person, if my stuff was destroyed, I wouldn't have anything. That bothers me as well. The safety issue is a very big thing and Ecuhome does manage to stress very clearly that it honours that system, and it does help us out when we need help.

1150

**The Vice-Chair:** We have Mr Fletcher and Mr Owens for the government caucus. Mr Macartney is here now as well. If you leave a little bit of time before 12, it would probably be appreciated.

**Mr Stephen Owens (Scarborough Centre):** I'll withdraw my name from the list.

**Mr Fletcher:** Thank you for being here today. You talked about safety. Suppose, Tim, that you were living in an apartment building and someone was being disruptive and was harassing you, maybe unintentionally. Of course, the way you would go about it would be to complain to the superintendent of the building and then perhaps file a few complaints, correct, if you were living in an apartment somewhere?

**Mr Tim MacKenzie:** If I were living in an apartment, I would contact my superintendent.

**Mr Fletcher:** Is that basically what you're doing at Ecuhome? If there's a problem, do you get in touch with the staff, the landlord or something?

**Mr Tim MacKenzie:** We talk about it in our house, and all the members of the house go to Ecuhome and say that we have a problem. We need them to be the mediator because we've already talked to this person and this person is not listening. Ecuhome knows the situation, and being mentally ill, he doesn't have any responsibility to tell us what his disability is or his mental state is.

So Ecuhome was able to mediate when we weren't able to do that. We weren't able to mediate in that situation.

**Mr Fletcher:** Much like when tenants in an apartment building or somewhere would form tenant associations or get in touch with tenant associations or even a legal aid person and they would mediate for them if there was a problem in an apartment building. That happens sometimes too.

**Mr Tim MacKenzie:** This is a quick process. This is not a process that we have to go through for months and months just to suffer this out. They respond very quickly to any of our needs.

**Mr Fletcher:** Do you sometimes get the person out of the place fast?

**Mr Tim MacKenzie:** They do as fast as they can. They don't throw anybody out in the street, and I wouldn't want somebody to be thrown out on the street no matter what kind of behaviour they had. I would want them to have accommodation.

**Mr Fletcher:** We had a person here yesterday who used to be a resident at Ecuhome who said that they do throw people out on the street. He was a previous resident of Ecuhome at the time and they were throwing people out; in fact, things like taking doors off. That was just another resident of Ecuhome who had a different story than what you have, Tim, that's all.

**Mr Tim MacKenzie:** Can I respond to that? Ripping off doors and destroying property is really too bad, but Ecuhome honours their houses and they keep it well maintained. Under the contract, you do not destroy people's property.

**Mr Fletcher:** It was the staff who took the door off his apartment and took all his furniture, and the person was sleeping on the concrete floor even though he had a bad back. They were trying to get rid of him and he fought for his rights. He was entertaining his girlfriend in his bedroom and they walked right into his apartment. This is just another tenant who was at Ecuhome, relating this story.

**Mr Cordiano:** Why don't we get him to make a declaration?

**Mr Owens:** Because we're not interested in—

**The Vice-Chair:** Mr MacKenzie has the floor, and that will have been the final question.

**Mr Fletcher:** I'm listening to you.

**Mr Tim MacKenzie:** That doesn't respond to me. I haven't experienced Ecuhome doing those sorts of things. My experience is that Ecuhome gives a certain number of days before they enter any premises, even your room. They give us plenty of time to notify us that they're coming into our room to have a house inspection. They give us plenty of time and they make sure they don't destroy the rights. We still have our rights and they don't impede on that.

**The Vice-Chair:** We really appreciate your presentation and personal testimony that you brought before the committee, and you can be sure that it will be taken into careful consideration.

W.H. MACARTNEY

**The Vice-Chair:** Mr Macartney, I think you got stuck in traffic a little bit earlier. If you want to make a brief presentation, I don't know how much time we would have, but perhaps we could give you 10 minutes. We might get a chance for some questions and answers.

**Mr W.H. Macartney:** I just came from the Niagara River and there's a snowstorm there, and I was given 19 hours' notice about your meeting by somebody here. I very much appreciate your hearing me. After listening to a couple of the other depositions, my point is not frivolous but it's probably not as important as what you were just addressing.

I have a personal problem in terms of a property. This would have to do with the Planning Act, and specifically page 22 of Bill 120, section 37, at the top. My local MPP last night gave me what's apparently a summary of your November 23 hearing, and I'd like to address page 27 of that. This is all sounding rather cumbersome and it's a very tiny point.

We've had a place on Lake Ontario near the Niagara River, "we" being my family, for about 45 years. Roughly 25 years ago we built a detached home on the property. The property is just under two acres. Being in what we call the peach orchards, it's on private services. That means septic, of course, and our own well.

I checked with our local building inspector for Niagara-on-the-Lake, a Mr Walker, a few months ago, and he mentioned that this bill was being proposed and that possibly our situation might be governed by one item, which is apparently called "garden" or "granny" apartments. I don't think it's pertinent, but specifically what we've got here is a situation where you've got an 83-year-old woman, my mother, who's currently in hospital. What we want to do is expand our house into the equivalent, I guess you could call it, of an apartment. It would be effectively duplicating what we already have. We would end up with two kitchens and a couple of more bathrooms.

Walker suggested that there's no problem whatsoever in terms of the septic system capability; in other words, extra bathrooms. There's no problem about having extra people in that location, given the size of the property. The problem is that they define expanding the size of the original detached dwelling to encompass, and here's the key word, a second kitchen. Apparently, by their definition that becomes a second house and the local bylaws don't allow it.

Apparently, section 37 addresses this. I don't want to waste the committee's time. It may be that my question is already answered. "A major concern raised by a number of rural and resort area municipalities"—and Niagara-on-the-Lake fits both definitions—"was that they should not be required to permit second units in houses on private services." I think that pretty well sums up the situation.

Your section 37 seems to suggest that your committee is going to be proposing to the Legislature that the official plan, namely, for the Planning Act, is going to be amended so that this type of restriction I'm specifying

will not be allowed by a local municipality, namely, as long as one met the building code, fire codes etc, one would be allowed to build a second kitchen on to a current detached residence.

I would just like some comments—I'm not making a normal deposition here—if anybody has any information on what I'm addressing.

**Mr David Johnson:** My understanding, and maybe there's somebody from staff who may comment on this, is that you're on a septic system, so I don't believe the accessory apartment would be allowed as of right, but the local municipality—I see a head nodding over there—would have the option of a spot rezoning, I guess, in your particular case, looking at your particular case and permitting that, depending on circumstances.

**Mr Macartney:** Oh, really? So I can apply for a small spot rezone.

**Mr David Johnson:** This bill would not prohibit municipalities from doing this. It just says that as of right, it's not allowed.

**Mr Macartney:** In other words, you're not giving open season to any municipality to do this, but I could possibly—

**Mr David Johnson:** You can still make application.

**Mr Macartney:** Thanks for your comment. The silly thing is we are part of a seven-permanent-dwelling little neighbourhood on Lake Ontario. Two of the other residences already have done this over the last 20 years; illegally, I suppose. Maybe I shouldn't have gone to our building department. Anyway, the more I sit here, the more I realize this is a minor point, but to our family it's a major point because we have to be with my mother, who is going to require some care. This was our game plan, to expand this dwelling as time went on.

Anyway, I appreciate it.

**The Vice-Chair:** Mr Macartney, you have every right to ask questions and make a presentation.

**Mr Macartney:** Well, still—

**The Vice-Chair:** Normally what we do is we go around the table here. There are various aspects to this bill, so you don't have to be concerned. You took your time to come all the way, so I think we at least owe you some time as well. Anybody from the government side?

**Mr Mills:** I agree with my colleague. I think that the legislation really is there and it's up to the municipality, in view of the fact that you have a septic system—they've approved that, according to what you said. I don't see any problem with this.

**Mr Macartney:** I agree too. The more I look into this—and I apologize for not doing it ahead of time; I didn't get it in time—the more I see your intent is to allow this within certain bounds. A spot rezoning, as this gentleman suggested, would be the obvious solution. I really appreciate your input.

**The Vice-Chair:** Did you want to comment?

**Mr Gary Wilson:** Yes, just to say how pleased I am that Mr Macartney was able to make it here and have his problem clarified. That, of course, is why we are doing it. This is the kind of reaction we expect, that it helps so



many families in circumstances like this.

**Mr Mills:** A good-news story.

**Mr Cordiano:** Mr Macartney, we appreciate your coming to the committee. It's been a long drive. I hope it clarified the situation for you. I wish you luck with your municipality. That's all I can say.

**Mr Macartney:** Just as an aside—I know everybody's leaving for lunch—the hilarious part is I got this information from the wrong MPP, and I'm wondering if my MPP is nearby. Does anybody represent Niagara here?

**Mr Mills:** Who is your MPP?

**Mr Macartney:** Christel Haeck, St Catharines-Brock. *Interjections.*

**The Vice-Chair:** This could get too partisan. Thank you, Mr Macartney. We better adjourn until 2 o'clock.

*The committee recessed from 1204 to 1404.*

CENTRE FOR EQUALITY RIGHTS  
IN ACCOMMODATION

**The Chair:** Our first presentation for the afternoon will come from the Centre for Equality Rights in Accommodation. Good afternoon, gentlemen. The committee has allocated one half-hour for your presentation. You may use that half-hour as you wish, including your presentation and some time for questions and answers with the members. You should introduce yourself and your colleague for the purposes of Hansard and then you may begin.

**Mr Bruce Porter:** My name is Bruce Porter. I'm the coordinator of the Centre for Equality Rights in Accommodation. With me is Raj Anand, whom most of the members will recognize as the ex-chief commissioner of the Ontario Human Rights Commission and who is the chair of the inquiry into legalizing safe apartments in houses that was held on June 3, 1993, at Metro Hall.

CERA's main concern with Bill 120 is to point out to the committee the important human rights implications of both aspects of the bill. We felt that it would very useful for the committee to hear directly from Mr Anand about the results of his panel's inquiry. After Mr Anand has finished presenting those, I will just add a few extra points that are relevant to CERA, mainly on the other aspect of the bill, the care homes aspect. Then we'll be glad to take questions.

**Mr Raj Anand:** The inquiry into legalizing safe apartments in houses was organized by the Inclusive Neighbourhoods Campaign, whom I believe you've heard from. I was joined, as chair, by a panel of 10 respected community leaders who were recruited to hear and consider evidence on the issues.

We've provided you with the report—that's in the green binding—of the inquiry. I intend only to highlight some points from it.

You'll see on the first page the list of panel members. I won't take you through it, except to note the diverse nature of their backgrounds and their qualifications, including the executive director of the Canadian Urban Institute; the executive director of the Toronto Chinese and South East Asian Legal Clinic; Dr Hulchanski, a professor of social work at the University of Toronto; a

counsellor; an architect; and many others.

We listened to a full day of presentations on June 3, 1993, and we considered a number of written submissions. The report that you have before you is based on the testimony and represents the findings and recommendations of the panel, all of whom, myself included, have no formal association with the Inclusive Neighbourhoods Campaign. We were recruited and asked to listen and to report.

Through the deputations, and you'll see a list of those at the end in appendix 1, the oral submissions and the written submissions, we found that apartments in houses have been a way of life in Ontario for several generations. They do not cause the deterioration of community life but have been an integral part of most communities. There are now, as I'm sure you've heard on a number of occasions, about 100,000 illegal apartments in houses in Ontario.

We found that the consequences to individuals and communities of continuing to outlaw apartments in houses, which most municipalities continue to do, in spite of planning statements by the ministry encouraging the contrary, are very serious.

Municipal bylaws which ban apartments in houses have the effect of discriminating against tenants in general and against groups that are intended to be protected by the Ontario Human Rights Code in particular. If there is one point that came out of this inquiry, it is that human rights cannot be a matter of municipal option.

We found that there was either intentional or unintentional discrimination; that is, adverse impact on most of the groups that are protected by the Human Rights Code. To give you some specific examples from deputations that we heard, we asked, "Who are those groups?"

Canadian Pensioners Concerned told us that those with the greatest need for apartments in houses, and with those needs not being met, are "those living on low to moderate incomes; singles of all ages, including the elderly; students; young families; particularly women. These groups have proportionately lower incomes and a relatively higher incidence of homelessness." That's from elderly representatives who made that submission before us.

Women Plan Toronto told us, "Even though there are increasing vacancy rates...the recession means that more and more people cannot afford housing...and women and women-led households are the majority in this category."

The Scarborough Tamil Women's Organization told us, "As a culture we depend on the composite family structure....Basement apartments are like (family) housing in India, where an extended family lives with its own privacy, and shares certain things for economic reasons. Extended families are a way of life."

Indeed, it's not restricted clearly to minority cultures. The representative of Canadian Pensioners Concerned also said to us: "I grew up in an extended family and I think there are many Caucasians who live in extended families. I find my young are extending our family as they move back home...for housing reasons, in large measure."

In addition to the unintended effects on all of these groups as a result of bylaws banning apartments in houses there is an element, it's unfortunate, and I'm sad to say, of intentional discrimination that's involved at the municipal level. We heard disturbing evidence that in many cases technical requirements were being used as an instrument to legitimize discriminatory neighbourhood reactions. We heard from the Ontario Federation of Students that "zoning bylaws which are supposed to be used to determine land use are instead used as tools of social engineering to determine who is worthy to live in a certain area. The end product is...ghettoization."

Zoning historically has been used and can still be used to keep out of a neighbourhood ethnic minorities, lower-income households, renters in general or additional populations of any kind. Zoning bylaws have always represented the product of relatively advantaged groups, to the disadvantage of those such as single mothers and racial and ethnic minorities. So we see continuing discrimination in the pattern of zoning.

Again, Canadian Pensioners Concerned said, "(Apartments in houses) are illegal" in most municipalities "because, in our view, local governments have pandered to the demands of middle-class home owners who don't want 'those' people living in their neighbourhood. 'Those people' are some of us, our children, our grandchildren...our friends, our neighbours, old Canadians or new, singles or families, the employed or unemployed, students." So we found, in brief, that the issue of exclusionary zoning bylaws is a human rights issue.

Quite apart from that we found that it's an environmental issue. Land use planning has pursued a direction which can no longer be supported by the environment. The panel that I chaired urged the need to reduce, reuse and recycle housing. We must reduce our use of and dependency on ever-expanding single-family neighbourhoods and the associated reliance on the automobile. We must reuse housing and neighbourhoods created for larger families and different times to meet present-day needs for smaller, more flexible units.

We said communities change: Families grow up and move away, people age, new people come in, family structures change, work opportunities come and go. There is now an increasing number of small households and many variations on the extended family. Flexibility and variety of affordable housing options are needed that permit access to all communities and provide housing that is sensitive to changing household composition, size and diverse cultural norms and traditions.

We found that the consequences of continuing to outlaw apartments in houses are very serious. Tenants cannot exercise the basic rights enjoyed by other tenants in the province and are at constant risk of arbitrary eviction. Home owners can be harassed by the municipality or forced to close down the apartment at any time, thereby losing vital rental income. As well, they risk substantial fines. Entire groups of people are effectively excluded from legal residence in thousands of neighbourhoods around the province. Other people are penalized for accommodating family members.

Having heard the submissions, we urged in the

strongest terms that the province pass what was then Bill 90 as quickly as possible for the following two reasons: (1) the need to end constructive and intentional discrimination in zoning as it occurs through the ban on apartments in houses, and (2) the need to encourage housing forms which respect the environment: reduce, reuse and recycle in housing.

That was, in a nutshell, the outcome of our inquiry. I just wanted to say one other word before allowing Mr Porter to resume his remarks. I was personally shocked and surprised to hear the irresponsible comments that were attributed to Mayor McCallion earlier last month to the effect that the tragic fires that occurred over the New Year's holiday in basement apartments demonstrated the dangers of Bill 120.

I suppose the answers to that are obvious. Point number one: Bill 120 wasn't in force or in effect at the time and substandard fire traps, if that's what they were, were allowed to exist without Bill 120 so it's hard to blame a progressive measure such as Bill 120 on those tragic occurrences. There are, as I've said and as many others have estimated, over 100,000 apartments in houses without Bill 120. They're all illegal, the 100,000 I'm referring to.

But point number two clearly is that Bill 120 would render these apartments legal by outlawing the zoning bylaws which prohibit them and would thereby allow recourse to fire and building codes without fear of reprisal on the part of tenants and landlords, as I've said a moment ago.

So it is really to turn logic on its head for uncertain purposes, in my view, to ascribe those tragic occurrences to this piece of legislation, which the inquiry that I chaired wholeheartedly endorses in its principle.

**Mr Porter:** I'll just highlight some of the aspects that we are pointing to in our submission from the Centre for Equality Rights in Accommodation, which I think all of you have before you.

I want first of all to mention that we see this piece of legislation as an extremely important advance in human rights in housing on a number of levels, but let's just start talking first about Canada's international obligations briefly.

We have ratified the International Covenant on Economic, Social and Cultural Rights as of 1976, which guarantees the right to an adequate standard of living, including adequate housing. The right to adequate housing is one of the very fundamental aspects of that covenant which has received a fair bit of attention in international law. It's been defined very much as a universal right. It's not something that applies to particular individuals and particular circumstances but something which the state must guarantee to all people.

The committee that monitors compliance with the covenant, the committee on economic, social and cultural rights, has established that state parties to the covenant must "take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups." That recommendation



went to the highest human rights body in the world, the Human Rights Commission, which endorsed that approach to security of tenure and declared that it's a fundamental human right which must be made available to all persons.

CERA was privileged back in May to be a part of an unprecedented intervention before the committee that monitors compliance with the covenant when Canada was being reviewed for compliance, particularly with the article that recognizes the right to housing. We went there ostensibly to educate the committee about what was occurring in Canada, but these international encounters always end up being educational for ourselves as well.

I found it personally very educational to see the kinds of responses we got to certain kinds of issues which have almost become commonplace here. I'd run into it before when I'd talked to people in international circles about the fact that one of our main issues in Canada is people with children being denied housing because they have children. I've always found that very difficult to describe. People react to it as a horrific human rights violation when we've almost become somewhat complacent about it.

1420

We had the same reaction to the two issues that this bill, Bill 120, deals with. When people were informed that in Canada we have particular neighbourhoods that are zoned for home owners only and that, as a result, tenants who pay their rent to landlords who want to rent to them are nevertheless deemed to be illegal residents of that community and have no legal rights to security of tenure and to maintenance of their apartments, this was seen to be very perplexing to all of the members, as far as I could see, of the committee on economic, social and cultural rights. That committee recommended in very strong terms that Canada should be moving to ensure that security of tenure was provided to those vulnerable groups that are lacking it.

While security of tenure is recognized as a universal right, it's recognized as being particularly important for the most vulnerable groups. It's there to try to protect people in a very vulnerable power imbalance between people who are providing a basic necessity and those who are relying on it.

The second aspect of Bill 120, the aspect that deals with care facilities, is equally important and to our mind perhaps more of an obvious violation of all human rights norms, although we do think that both aspects of the legislation deal with very important and obvious violations of human rights on all levels: international human rights, the Charter of Rights and Freedoms and the Human Rights Code itself.

Finally, I wanted to turn to a couple of the issues that I understand have been discussed by the committee and to give some very minor suggestions on what kinds of approaches we could use in resolving them. The first is the issue of fast-track evictions which I gather has been proposed by a number of people as a way of dealing with some of the problems that may arise in shared accommodation. It's CERA's view that if any of the conditions for a fast-track eviction is that the person be a resident of a

care facility, that would constitute direct discrimination on the basis of disability. It would taint this legislation with the very form of discrimination it's designed to overcome. There would be no legal defence to this kind of direct discrimination. Under the Human Rights Code, there's no justification for direct discrimination.

If, on the other hand, the restriction was to situations of shared accommodation only, that's a restriction which is somewhat more neutral on its face; it doesn't identify people with disability specifically. However, it would clearly have an adverse effect on a number of disadvantaged groups protected by the code. In that situation, the standard of undue hardship comes to play under human rights jurisprudence, which means that there is an obligation to ensure there's an accommodation of the needs of the group who are adversely affected and as long as such accommodation will not impose an undue hardship on the respondents, then the obligation is to accommodate those needs. It would be very difficult for landlords to prove that it would be undue hardship to accommodate the needs of people living in shared facilities, given that so much shared accommodation is currently under the Landlord and Tenant Act. We really feel that imposing a fast-track eviction on all shared accommodation situations risks introducing a very broad erosion of rights to deal with only a few problematic situations.

The only kind of possible justified restriction that we would consider, although we wouldn't really advocate it, would be that where fundamental security or the human rights of other tenants are at demonstrable risk and if alternative accommodation were provided during the eviction procedure, then perhaps that could be justified under human rights legislation. On the other hand, while we might find such a provision legally acceptable, we're not advocating it because we have serious misgivings about the growing acceptance in our society of eviction as a means of social control. It's a punishment which only affects tenants. It's not really the most effective way of dealing with the kinds of social problems we're starting to try to deal with through eviction. It's a sanction which unequally punishes the poor and those with children and it simply moves problems around, either to another apartment or to the street.

More appropriate mechanisms would be found in improving other tribunals. The Cornish task force, for example, recommended very important reforms that would allow for quick and immediate action to protect people's human rights in situations such as sexual harassment and shared accommodation so that there would be immediate remedial powers available through an appropriate tribunal. We don't see landlord and tenant court as the place to resolve these kinds of very difficult and important issues of human rights and dignity.

The other issue that's been raised by some deputants is that by improving security of tenure for vulnerable groups, we're going to be encouraging landlords to discriminate against them. While we would never support the notion that somehow we should use landlords' discrimination to justify keeping discriminatory legislation on the books of this province, we do take that concern very seriously, because we've seen it operate in all



apartments. As security of tenure protections have been put in place, landlords have used them as justification for refusing to rent to the people that they, through their stereotypes and prejudices, deem to be risky tenants.

You may know that there's an important hearing coming up in the next few months on whether or not it's contrary to the Human Rights Code for landlords to prejudge people on the basis of their level of income and simply refuse to rent to low-income tenants on the basis that they believe they may be at a greater risk of defaulting on rent.

We have to take these kinds of concerns seriously. What concerns us somewhat is that of all of the legislation we have in the area of housing currently, there has never been any that has included and placed in legislation and established as public policy in Ontario that housing is a fundamental human right. Part of that right is security of tenure; the other part of that right is non-discrimination and access.

What we think would assist in ensuring that the courts approach these protections in the right manner and would never deem it appropriate to justify discriminatory behaviour when a landlord said, "Well, I would have to go to court and it would be too hard to evict them, so I don't want to rent to them in the first place," we think it would be appropriate to consider a preamble to the Landlord and Tenant Act, which situated these kinds of protections of security of tenure in the larger context of Canada's international human rights obligations and in the context of the right to adequate housing.

We've outlined some suggestions on the last page of our brief in italics of some of the kinds of whereas clauses and affirmation clauses that might be appropriate in a preamble to the Landlord and Tenant Act. I might draw your attention to the last one that states that affirming that security of tenure is a component of the right to adequate housing and can never justify discrimination against members of socially or economically disadvantaged groups applying to rent apartments. That's our suggestion for a possible way of approaching a couple of problems that people have brought before you. We'd now entertain questions.

**Mr Jackson:** Let me say at the outset, I appreciate your presentation. You have raised an awful lot of points, some of which I actually agree with.

I sponsored a bill with respect to eliminating exclusionary bylaws in Ontario back in 1987 and so I share some of your concerns in that area. I may have come at them from a different angle.

I'm little concerned about some of the other presumptions you make in your presentation. I'm concerned about the emphasis completely on zoning and private sector ownership of property. I think people are forgetting here that since 1987 this province has constructed more social housing than it has private housing. This is a fact—and every year since then. Our problems today with this legislation are more an indication of the failure of our social housing policy than it is any failings on the part of the private sector to provide this housing.

I want to ask you, you make some comments on page

4 which use very harsh language, Mr Anand, quoting your Centre for Equality Rights in Accommodation that you're involved with, and referring to people using—let me see, segregation and forms of apartheid being practised with these zoning bylaws by not acknowledging basement apartments, as an example. Then you go on to refer to Hazel McCallion's comments as outrageous and irresponsible but then at the end, Mr Anand, you said, "And then these comments were for uncertain purposes." Was Ms McCallion that unclear that you don't understand where she was coming from with her comments?

**Mr Anand:** Perhaps I should say "questionable purposes."

**Mr Jackson:** But on page 4 you make it very clear as to what the motivation is for people who—

**The Chair:** Thank you, Mr Jackson. I'm aware there isn't much time here.

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**Mr Fletcher:** Thank you for your presentation. As you know, this committee is listening to what people have to say so that we can make changes, amendments or anything to the legislation that will make it workable, and I believe it is worthwhile already. One thing that I'm looking at is that we've heard a lot from people who do rehabilitative programs or therapeutic programs in their group homes. We've heard that they need an exemption under the Landlord and Tenant Act. Do you subscribe to this view?

**Mr Porter:** No, we don't.

**Mr Fletcher:** Why?

**Mr Porter:** We feel in fact that in many of those instances the protections of the Landlord and Tenant Act are even more important. I spoke about the fact that there's a power imbalance between the housing provider and the person relying on the housing. In cases where people are also relying on their housing situation for care, their vulnerability is increased and the potential for the abuse of power is increased.

Our experience at CERA with people living in those situations has been that they have tended to encounter very difficult situations where we feel that the power that's invested in the landlord by being outside of the Landlord and Tenant Act, where the person can be threatened continually with an arbitrary eviction, is very detrimental to those situations. It simply is completely unacceptable to have in this province a piece of legislation that gives all other tenants security of tenure and denies to people with disabilities who require care. It simply is not something that's even thinkable in this day and age.

**Mr Grandmaitre:** I'm going to take you to page 3 of—let's call it your green paper. "There is not, and never has been, a concerted effort to weed out apartments in houses, nor could there be," and on the very same page: "These apartments are not illegal because they are unsafe according to health and safety standards. They are illegal because of municipal zoning which states that certain residential neighbourhoods must be reserved for single-family homes." Where is that statistic?

**Mr Anand:** Which statistic? The 100,000 or the



proportion that are illegal?

**Mr Grandmaitre:** You're saying that they are not illegal because they don't meet standards.

**Mr Anand:** They may be illegal for more than one reason, but they are certainly illegal because of zoning bylaws. They are all illegal because of zoning bylaws.

**Mr Grandmaitre:** That's because they are unsafe, you say.

**Mr Anand:** That's the point that's being made. Some are clearly unsafe as well.

**The Chair:** Thank you. You've certainly presented us with a very clear view. The committee will be considering this bill clause-by-clause during the week of March 6. Thank you very much for coming.

#### ST FRANCIS RESIDENCE

**The Chair:** The next presentation this afternoon is St Francis Residence. Good afternoon. Welcome to the committee hearings. You have been allocated one half-hour by the committee for your presentation. You may use that half-hour as you wish. You should begin by introducing yourselves for the purposes of our Hansard, indicating what position you might hold within the organization.

**Sister Mary Fatta:** I'll introduce myself. I'm Sister Mary Fatta. I'm the director of St Francis Residence.

**Ms Flori Hernandez:** My name is Flori Hernandez. I'm a resident at St Francis Residence house.

**Mr Norman Rodriguez:** I'm Norman Rodriguez. I'm a resident of St Francis Residence.

**Ms Elsie O'Donnell:** I'm Elsie O'Donnell. I work at St Francis.

**Sister Mary Fatta:** Today, I'm here to discuss Bill 120's potential impact on people residing in unique housing situations such as St Francis Residence. It is indeed advantageous to have input from the wider population, especially from those who will be directly affected by this legislation. The making of good laws requires this consultation process. We have to keep before us an essential question: Does this proposed law actually protect the rights and best interests of both the individual person as well as the legitimate rights and best interests of the residential community?

It is necessary to consider the practical effect that Bill 120 will have in the varied situations that groups representing residential services find themselves in. I believe that Bill 120's intention and spirit are admirable, but I also believe that there are many complex issues of distinctions requiring legal exemptions.

Housing in general is composed of a multiplicity of styles and therefore one cannot understand it only as a simple entity. The following represents some examples of actual circumstances experienced at St Francis Residence. My purpose is to demonstrate our dilemma and concerns surrounding the possible application of Bill 120 as it stands now.

To give you a brief historical background, St Francis Residence was established in 1988 as a non-profit, long-term residential care home for 24 adults, both men and women, survivor-consumers recovering from mental

health disabilities. The purpose of our facility is to provide a supportive environment with care for those with special needs. With our staff we endeavour to promote an environment that facilitates the safety, security and wellbeing of each resident on a 24-hour basis. This is our mandate.

Also, it should be noted that we are not an unregulated home, as we are required to comply with the approved standards of care set up by the mental health program services. Regular quarterly inspections are made to ensure that we are providing these standards of care to our residents. Thus, our primary role is not just to be housing providers only, but to provide supportive assistance within a communal living situation.

Our two main issues of concern regarding Bill 120 are safety and health care.

**Safety:** All of our residents have a right to feel safe at all times. Women especially are usually more vulnerable and may require greater protection. Our house procedures, called Rights and Responsibilities, were written with input from and approved by the residents themselves. I consider them to be reasonable and equitable in practice. Now, in our physical situation of shared common facilities such as bathrooms, lounges, some double bedrooms etc, we have experienced the need to set up some commonsense restrictions regarding, for example, visitors during the night. But Bill 120, requiring the application of the Landlord and Tenant Act, would allow guests free access to any of the common areas at any time.

Can you imagine the fearful reaction of some of the female residents should a strange man be discovered prowling around the house at night? I certainly wouldn't want to put anyone at risk. Who would want their own sister or daughter living under such stress in this potentially dangerous situation? Many of our women have repeatedly stated that they want their privacy and safety protected. The legislation ought to legally recognize the rights of residents to restrict right of entry in such situations and make the distinction between self-contained housing units and communal living with shared common facilities.

**Safety:** Occasionally an individual may become delusional, paranoid or have anti-social outbursts. They may actually assault another resident or staff, causing bodily harm and emotional trauma. It could happen that the victim refuses to lay criminal charges and that the police are unable to take action.

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At the present time we are able to initiate a process whereby the mental health workers and the house director are involved in meeting with the aggressor concerning the need for greater supervision and the consequences of termination of tenancy due to the breach of the contract. Every effort is made to give the resident more suitable housing options within a reasonable time limit. It is a process that prevents a drastic solution to the problem.

In some of the actual assault situations, which are fortunately infrequent, it was mainly our female residents who strongly made a plea for eviction because of the fears of further attack or even threats of attack. But even

some of the male residents reacted fearfully and supported eviction as soon as possible.

All residents have a right to live in a peaceful and safe environment, as stated earlier. But the application of Bill 120 would infringe on this right, because it could take up to several months before the actual eviction could be effected if the resident chose to contest the eviction notice. In the meantime, many of the residents would probably be living in constant fear, especially the most vulnerable ones or the one who was the victim of the initial assault. Also, once the person has committed an assault, they are already mentally deteriorating and the likelihood of the escalation of violence is a real threat.

Dr Lightman recognizes this problem and he stated recently the need for exceptions in such situations with the recommendation of an interim order or fast track to speed up the eviction process. But the actual process time should be limited to within a few days, instead of weeks or months, if people are to be given protection.

The above safety issues are only a sampling of concerns for all our residents' rights to live in a safe and peaceful environment. Sharing communal facilities such as ours requires a very different set of rules from those pertaining to self-contained housing units.

Issue 2 regards personal care. When someone deteriorates to the level that they cannot adequately care for themselves, even with staff assistance, then all in the house, but especially the resident needing greater support than we can offer, are adversely affected.

The situation of personal hygiene is a good example of this. When it becomes obvious to staff that a resident requires a more supportive care environment, then we initiate consultation with the individual's doctor and mental health workers. Usually, after consultation with the individual, arrangements are made for more suitable housing where there is intensive supervised care, such as a nursing home or even a retirement home.

But in situations where a resident requiring intensive care is either delusional or lacking insight, then Bill 120 would prevent this type of intervention at the expense of the person needing help. Is it really in the person's best interests to allow them to vegetate to the extent that the situation becomes inhuman and perhaps unhealthy for them as well as for others in the home? And what about the rights of others? In some cases where there is a roommate involved, the situation becomes even more difficult to endure.

Bill 120 must take into consideration both the individual person's rights and the rights of others living in the shared accommodation. In making recommendations for amendments to Bill 120, I would suggest that common sense, equality and justice be included as essential values. The following are some recommendations for your consideration:

(1) Recognize that the complexity of housing situations such as care homes requires legal distinctions and exemptions.

(2) Set up additional legal requirements in a separate section for care facilities/homes that will be in keeping with the rights and best interests of both individuals and

the residential community.

(3) Develop a fast track with a reasonable time limit to facilitate arrangements for residents who prove to be unsuitable for communal housing to be given housing options for relocation as soon as is reasonably possible.

In summary, I'm not objecting to the Landlord and Tenant Act when it is applied appropriately, but in unique housing situations such as ours there is a need for some measure of flexibility. It is therefore expected that in the final process of formulating Bill 120, flexibility will be more apparent so that the legitimate rights of all people living in the communal housing situation will be respected and given adequate legal protection. I believe this would be responsible and effective lawmaking.

I would like to ask if anyone from St Francis would be interested also in giving their own personal comments.

**The Chair:** That's good. Go ahead.

**Ms Hernandez:** I would like to say that with Bill 120, I probably will be feeling afraid or nervous at somebody coming to the house and they're not living there, they're not entitled to be there, or other persons who will come into the house and in hours that they cannot be there or somebody violent in the house who can hurt somebody, and you stay in the house and here is again somebody. I feel that I'd be feeling very nervous. I think that Bill 120 will give us some difficulties or problems in our residence now.

**Mr Rodriguez:** I feel that Bill 120 would pose a problem in the case of one tenant being violent against another, even though it may be the first time he's violent. If he's violent, he should be evicted from the premises. Bill 120 will not allow him to be evicted as soon as is desired.

I'm thinking of not only my own safety but the safety of other colleagues in my boardinghouse. That's all I want to say. If somebody wants to be a criminal, let him live with other criminals, not with decent people in a boardinghouse. That's what I want to say.

**Ms O'Donnell:** I lived in a home, before Habitat came into power, and we took anybody and everybody off the streets and believe me, it don't work. I've had people tear the place apart within about 10 or 15 minutes, so I don't think people should have to live like that.

**Mr Gary Wilson:** Thanks very much for your presentation. It certainly offered us some thoughts about the bill, especially following on the previous speaker or presentation. I was just wondering what your feeling about that was as far as the human rights issue that they made so clearly, that to try to come up with distinctions that you're suggesting would violate the human rights of the people who are most in need of protection.

**Sister Mary Fatta:** I really wasn't here for that.

**Mr Gary Wilson:** You weren't here for that, I'm sorry.

**Sister Mary Fatta:** It wouldn't be fair for me to comment.

**Mr Gary Wilson:** Could you then speak to that issue? I'll just explain a bit that what you're suggesting is to have an exemption for group homes like yours, and that



would treating a type of tenant differently from other tenants. Of course what we're trying to do in 120 is extend the rights of tenants under the Landlord and Tenant Act to all tenants.

**Sister Mary Fatta:** My thesis is that everyone in the home has rights. You just can't take individual rights and put them on a pedestal and neglect the safety of the other people, so I'm in favour of the safety of everyone. You have to understand that this is communal housing. They're sharing. It's not a self-contained unit; therefore, I'm saying there is quite a degree of difference and you have to have laws to protect people in this unique situation.

**Mr Gary Wilson:** But you do say yourself that these cases I think that you're concerned about are relatively rare, I think you say that in your presentation, "which are fortunately infrequent," just how infrequent are they? How often have you had to evict a resident?

**Sister Mary Fatta:** It could happen maybe once in a year.

**Mr Gary Wilson:** You don't really keep records of this.

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**Sister Mary Fatta:** We don't have a great turnover. It's fairly permanent and stable. But whether it's once a year or once in three years is irrelevant. When it happens, you have to apply the law.

**Mr Gary Wilson:** That's right, but I mean, you also have a procedure that you work under.

**Sister Mary Fatta:** That's right, we have a process now. But if somebody was not agreeable to the process, then our hands would be tied.

**Mr Gary Wilson:** But you can see, though, that—

**Sister Mary Fatta:** We have to have a process. We don't throw people out on the street, and we recognize that it's a basic human right to have housing.

**Mr Mills:** Mr Wilson has asked most of the questions I was going to ask, so I'm going to leave a little time for my colleague Mr Fletcher. I'm just interested in what you say in your presentation, which I thank you for. You're talking about getting rid of, or some process whereby someone who has had an antisocial outburst—I'm kind of interested that you say, "The consequences of termination of tenancy." Does that mean that these folks are told, "If you don't smarten up, you will be gone"? Is that part of your way to deal with anti-social outbursts?

**Sister Mary Fatta:** When I said "antisocial outbursts," I meant it could be a behavioral problem, not necessarily a psychotic problem, and perhaps they for some reason don't like another person and they decide they're going to kick them or hurt them.

**Mr Mills:** But one of the tools you use is, "You're gone if you don't smarten up," right? That's what I read here.

**Sister Mary Fatta:** A person is given warnings.

**Ms O'Donnell:** Three warnings.

**Mr Mills:** Three?

**Sister Mary Fatta:** It depends on the severity of the situation.

**Mr Jackson:** That's less than you get in caucus.

**Sister Mary Fatta:** Three strikes and you're out. No, it's not really like that. It is a process.

**Mr Fletcher:** Do you live at St Vincent de Paul?

**Sister Mary Fatta:** St Francis Residence.

**Mr Fletcher:** You like living at St Francis. Have you read the bill?

**Mr Rodriguez:** I have heard about it. I haven't read it personally, but I've heard about it.

**Mr Fletcher:** If you haven't read it, I was just wondering who was telling you about the bill.

**Mr Rodriguez:** Sister Mary was telling me about the bill and I was disagreeing with it.

**Mr Daigeler:** Since I do get an opportunity, I don't think you have to feel bad at all for not having read this particular bill, because if you had to read all these bills, you wouldn't know what to do in the first place. You wouldn't understand.

**Sister Mary Fatta:** That's right.

**Mr Daigeler:** I read these things and I don't know what it means half of the time.

**The Chair:** Mr Fletcher on a point of order.

**Mr Fletcher:** Sir, I'm sorry if I made you feel bad. That was not my intent.

**The Chair:** That's not a point of order, Mr Fletcher.

**Mr Fletcher:** Mr Daigeler did say I made them feel bad.

**Mr Daigeler:** I think you certainly very well understood what the principles are behind the bill. The government has made them relatively clear and you are raising an important issue that has been raised many times before. I certainly hope that the government will at least listen to this particular aspect, because the groups that you represent are, I hope, very much at the heart of the current government. Frankly, I'm still rather surprised that the government members are still trying to defend this particular aspect of the bill. I thought that by now they would have gotten the message.

In any case, let me ask you, do you get funding from the Ministry of Health as well? Where is most of your funding coming from?

**Sister Mary Fatta:** We do get a subsidy, a per diem.

**Mr Daigeler:** From the Ministry of Health?

**Sister Mary Fatta:** The Minister of Health, yes. It's a little more complex. It's the Ministry of Health, but it's channelled through Comsoc and it comes through the city of Toronto. It's too complex for me.

**Mr Daigeler:** I know how complicated these funding channels are, but you are considered then by the provincial government as a health institution.

**Sister Mary Fatta:** We receive \$15 a day per person, which is very minimal.

**Mr Daigeler:** I'm sure it would be.

**Sister Mary Fatta:** I wanted you to know that. Each resident pays their own room and board, and we also receive a subsidy from the St Vincent de Paul Society, per day.

**Mr Daigeler:** That \$15 I presume then is for care or—

**Sister Mary Fatta:** It's for the keeping of the standards.

**Mr Daigeler:** —the supportive health aspect, isn't it?

**Sister Mary Fatta:** Yes, for keeping people out of hospitals, for helping them to improve themselves and become more independent. That's the idea.

**Mr Daigeler:** So that's again where you are arguing that you are not by any means primarily a housing institution, you are a care institution.

**Sister Mary Fatta:** Exactly.

**Mr Daigeler:** And it is under that perspective that you are requesting an exemption, as many others have.

**Sister Mary Fatta:** Yes.

**Mr Jackson:** Is it fair for me to assume that St Vincent de Paul and Catholic support agencies within Metro Toronto are your main referral?

**Sister Mary Fatta:** No. Most of our referrals are from the mental health community: the Clarke, the Queen Street Mental Health Centre.

**Mr Jackson:** Recently, when the government was dealing with a parallel piece of legislation with respect to long-term care, it amended its original position and accepted a certain autonomy of these non-profit care organizations to provide programs in an effective environment. Let me state further that the reason that was done is because many organizations came forward and said, "We would really have a hard time continuing with some of our funding base, some of the volunteer hours of support that flow from the non-profit charitable corporation approach to these services."

Has there been any discussion or concern that, in fact the rules of the game are changed to relegate much of your authority to that of becoming more of a boarding-house, do you think that will affect the manner in which you're able to operate as a corporate board? I must hasten to say I accept your concerns and I support the concerns you're making. It's only a small part of the bill, but it's the part you've come to see us about today. There have been many who have said, "It's really going to challenge whether or not we continue that way, because we're essentially basically in the apartment business."

**Sister Mary Fatta:** One thing I can gather from all this is that certainly we'd have to do a lot more careful screening of the people who came in, which means the more vulnerable people, the needier people who really benefit from the program would probably not make it.

**Mr Daigeler:** That would be paradoxical.

**Mr Jackson:** Yes. Some have gone on to suggest as well that this is another repercussion and, dealing with mental health needs, the prospects are very bad if there isn't the care component which you're providing or there isn't the hospital bed if they have to back up, as it were.

**Sister Mary Fatta:** We know hospitals are cutting back all the time and they're trying to put people into the community, which is good. But another thing is I think the people themselves would not want to live in the home. I do remember one particular situation that I was

concerned about, but the residents, I didn't realize, were a lot more concerned. I think they would have had a petition to get the person out, or they would have said, "We can't live here"—some of them; not all of them. I think they themselves want a peaceful environment. They want it. They live there 24 hours; I don't.

**Mr Jackson:** I agree with you. I didn't have time with the previous deputation; I wanted to ask the question—once you accept that there are some tenants who just do not wish to cooperate with the rules of society, whatever they may be—there are a few of them—and that the process can be protracted through our legal system for as long a period as, say, three to six months, it has happened that you get a situation of reverse eviction, people saying, "Look, I really can't live here like this any more." Families start calling you and saying: "My son can no longer live there. We're having to deal with it. We're going to have to remove him."

Do you have fears that the protracted process—because you have an informal process now; it would move to a very formal and legal process, it would be more protracted—might be an outcome?

**Sister Mary Fatta:** I would think so, and also I'm sure we'd have a few other people who could be injured or whatever. I can see all kinds of repercussions. Right now we have a pretty good reputation; people want to come to us, and their families and the social workers and that. But if we had an atmosphere of violence or that kind of thing or not caring, I think it would be very difficult to operate.

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**Mr Jackson:** If I might make a request through the Chair, these deputationists have raised issues about safety as well and I wonder if we might get a response from Comsoc with respect to second-level lodging for women who are fleeing abusive situations; not immediate shelters, because they have a fixed time period of, say, 41 days or 21 days. But there is now an additional step to housing for women who are the victims of abuse who want certain rights of protection, secrecy, not allowing an abusive husband in or somebody else's abusive husband in the next room.

I wonder if we could make an inquiry if in fact Comsoc has any concerns about this legislation as it relates to shelter—I call it second stage because it's a longer term than the immediate shelter—because that's not covered under this legislation. But there are some Comsoc-funded facilities and treatment centres in which this valid question you've raised may occur with respect to safety. Could we direct that as a question?

I want to thank the deputationists for their presentation, each and every one of you.

**The Chair:** I'd like to thank you for coming to the committee and making what I consider a valuable contribution. This bill will be heard clause by clause beginning in the week of March 6.

Now to Mr Jackson's point: If it is the will of the committee, I can certainly make that inquiry on the committee's behalf of the ministry and would be happy to do so. I am, as you know, making an inquiry on the



committee's behalf to the Minister of Health. I believe the clerk can draft a letter on the basis of the Hansard that Mr Jackson has provided us with.

#### YOUNG MOTHERS' RESOURCE GROUP

**Ms Miriam Cohen-Schlanger:** My name is Miriam Cohen-Schlanger. I work as the housing advocate and education worker at Young Mothers' Resource Group. Here with me today, on my right, is Pamela Buist, who is the interviewer in the research study that was recently completed. I believe you have a copy of the executive summary in front of you. To the right of Pamela is Bob Fulton, who conducted the same study.

I believe you also have a copy of the letter I wrote to you, dated January 26.

Young Mothers' Resource Group would like to commend this government for bringing forth legislation to cover the rights of vulnerable groups. We're very happy to see that Professor Lightman's recommendations are not going to sit on the shelf but they are going to be implemented.

As the letter we sent outlines, we are going to focus on the apartments in houses piece, because this is often the only housing that's open to young parents because of various barriers they experience, such as income criteria and credit checks. They may not have a credit rating, and things like that. Many of the young parents are living in this type of accommodation, so we're concerned about this bill because it offers protection for these vulnerable groups.

Pamela is going to speak to the circumstances she found the young mothers in when she did her interviews for the study.

**Ms Pamela Buist:** During my interviewing process, I found that there was a substantial portion of these respondents living in substandard living conditions. Many of these young women were very fearful of their landlords for many reasons. One of the reasons that was brought to my attention on many occasions was that because of their financial situations with the collection of mother's allowance and/or welfare they are not able to provide up front a first and last month's rent. This of course was an issue. When you have normal accommodation, you're responsible for paying a first and last month's rent, and these women are not.

It seems to me like a lot of the landlords took this to their advantage, these women not being able to pay this first and last month's rent, and seemed to overcharge them initially for the rent. I found most of the rents in the different areas that I did the interviewing to be very high for what they were being provided with. This I found quite unusual. I don't know the rents throughout the city; I just know that they were paying much higher rent than I was, and they were receiving much, much less to go with it.

Also, a lot of these women were living in situations—I won't discuss too much about the conditions that they're in unless you ask—where they were just being improperly treated: not proper heating, no lighting, no private entrance and very much in backwards sort of accommodations. Did you want me to mention anything?

**Ms Cohen-Schlanger:** Perhaps, Bob, you would like to explain what some of the findings were.

**Mr Bob Fulton:** Just to put some of the general comments in context, the study that we conducted was conducted in such a way that what we saw in our random sample was fairly representative of a very large number of young families in Metro Toronto. So this description in some ways does apply over a much larger group than the 60 or so that Pamela would have interviewed during her time when she was doing the interviewing.

To put it into context, there are 1,200 teenagers who become parents for the first time in Metro Toronto alone. So there's a pretty large number of new families coming into the housing market every year just in Metro Toronto alone. Of this group, 40% of them will have a second child within two years. So there's a fairly large number of young families coming into the market, as it were, looking for housing.

The other thing we noticed from our study was that these young mothers pretty well came from all cross-sections of society, all socioeconomic groups from all over the city of Metro Toronto, from every neighbourhood and virtually every kind of employment, except doctors, interestingly enough. That may be because their daughters went to Switzerland. The point is that anybody's child can be a young teenage parent.

The fascinating thing that happened was that as soon as they became parents they also left their family of origin, they established themselves as a separate family unit and their socioeconomic status crashed right to the bottom. They became absolutely the poorest of the poor. Statistics Canada's study of this population found that 95% of these young families are well below the poverty line. Our particular study, which was quite consistent with Statscan's data actually, found that they were two thirds below the poverty line. They barely have enough money to meet basic human needs. This group is very, very vulnerable.

The other fascinating thing we found—because it's an issue that sometimes comes up in relation to social policy with them, was whether or not this is just a problem that on some level is a consequence of mental illness. In other words, these people are basically defective, there's something wrong with them, and all hell breaks loose when there's something wrong with you.

#### 1510

The fascinating thing was that we had done psychometric tests on all of these young mothers and what we found was that they were perfectly normal kids psychologically. In other words, being a young, teenage parent is not kind of an emotional disturbance; it's something that can happen to any family in the sense that it can happen to their daughter. It's a normal part of life. It's not a pleasant part. To become a young parent means some terrible consequences for the young woman. Her education is severely limited and her work opportunities are severely limited and she lives in poverty, so she becomes extremely vulnerable.

That's sort of the impression that we saw. It is that picture that causes us to recommend to the Young

Mothers' Resource Group that they really should advocate to do some work to try to provide these women with a better opportunity and a better chance. In particular, what seemed very clear was that the overwhelming issue is that they're faced with oppressive poverty. They are the poorest of the poor. They really are the people who are suffering the most. The greatest tragedy of all is that they have little kids with them, so this poverty is having a devastating effect on the babies and on their potential to grow and thrive.

Obviously, one aspect of their overall poverty profile is access to housing. They find it extremely difficult to meet basic needs, to find housing and then to manage the rest of their lives, and that's sort of what caused us to motivate this thing.

One thing I wanted to add, by the way, is our study found that 3% of the young mothers we interviewed were in Ministry of Community and Social Services residences. They were in maternity homes at the time we interviewed them—about half of them were in that situation—and 3% of those, or 3% of all the young mothers, so I guess it's a bit bigger in that group, were on the street prior to their residency in the MCSS facility. They lived on the street, and 4% of them were bouncing around from friend's home to friend's home. So we're looking at a group that, at the extreme end of it, has some very severe social housing crises.

We feel that there are many aspects of the bill before you which are very positive, not the least of which is that it hopefully will produce more housing stock, more availability, more places for these young women to live which would then give them a bit of a competitive advantage with landlords so that maybe they would start to get a better break on rent and also better facilities, generally speaking. Also, keep in mind that there are 1,200 new teenage parents a year seeking housing in Metro Toronto.

There's a real need to look at this housing problem and try to solve it, and obviously solve it in a multifaceted way. Obviously apartments in houses are only one part of the solution to their lives, but it seems to all of us that it's an extremely important component to really meeting their needs. I guess that's about all I have to say.

**Ms Cohen-Schlanger:** What I'd like to say is that apartments in houses are an historical fact in Ontario. I know from my life experience when I was young, until my parents could afford to buy a home, we lived in apartments in other people's houses. Then again as a young parent, in order to have a decent place to live that I could afford in a neighbourhood where my children could go to good schools I lived in the top of somebody's house. When I was able to pull together a small down payment for a home the fact that there was an illegal apartment on the third floor in this house meant that I could carry the mortgage and taxes; otherwise I would never have been able to buy that home.

I never would have had the courage on my own to put in an illegal apartment and I must say it did give me trepidation. If anybody from the municipality came around and wanted to—somebody did come to my door one day and wanted to inspect the house because renova-

tions had been done and, literally, I was scared to death. If I had had to close down that apartment it would have meant the loss of my home.

I really do urge that you recommend passing this legislation. It's very hard for me to understand why the municipalities don't acknowledge the existence of this housing when it's there, it's not going to go away, it's been there for a long time and will be. You may close down some landlords who are taking advantage of vulnerable people. On the other hand, you may encourage more law-abiding people to put them in and expand the opportunities for home ownership in Ontario.

I think it's important to stop rewarding the people who do break the law and punish the others who don't. I think that a clear message needs to go out: Most important, the vulnerable people in Ontario are protected. If you want to measure a civilization by how well it protects its vulnerable people, Ontario could be at the forefront of a civilizing process by saying, "Okay, residents' rights are protected in Ontario."

This is the message—and I envy you as legislators—it's in your power to send out. It's a time of very low morale. This is a very positive message that you can give out at this time.

**The Vice-Chair:** Have you finished with your presentation?

**Ms Cohen-Schlanger:** Yes, we're all finished.

**Mr Grandmaitre:** I agree with you that basement apartments have been with us since day one and will remain with us for ever. My biggest concern, and I suppose my party's concern, is the safety of these apartments.

I'm going to tell you something, because there are no cops around here, there are no policemen. I was mayor of a municipality for 14 years. I closed my eyes on basement apartments for the simple reasons—well, one of the reasons was I knew or, let's say, my bureaucrats knew that these people or these apartments were safe apartments.

I sympathize with you when you say that some municipalities in the province of Ontario are not very charitable. They're being mean by saying, "No, you're not allowed to have basement apartments because of parking, because of all of these restrictions." I think we have to find a way to provide housing for your 1,200 new single mothers every year. We need to protect these people because they are vulnerable people.

This is the balance the committee is trying to find. I think government is willing to try and find this balance to accommodate people and to accommodate municipalities in the province. I know it's very difficult. We tried back in 1989. It didn't work. We left it to the municipality to create or to intensify housing in the province of Ontario.

We did this for one reason, because the private sector will not build rental accommodations. It's finished in the province of Ontario. There hasn't been a rental—I'm talking about, let's say, 50 or more units in the province of Ontario because they're sick and tired because of rent control. They're losing money.



Even if our mortgage rates right now are at the lowest in the last 37 years, the private sector is not interested. It's up to the government, I suppose, to provide these types of housing. We have to find ways of subsidizing these vulnerable young mothers.

I'm glad you're reminding this committee and also the government and the opposition that we have a responsibility. We're still trying to find this balance. I think your presentation today will help us to take care of not only your young mothers but all vulnerable people in the province of Ontario.

**Ms Cohen-Schlanger:** You mentioned that you're concerned about the safety. Do you think there is more chance that the people living in this accommodation—because we both agree people are going to continue to live in them regardless—are going to be safer if we pretend these apartments don't exist and they're not inspected, or if we say: "They are there. We acknowledge their existence and we will regulate the standards"? Which do you think is safer?

**Mr Grandmaître:** First of all, we have to identify these basement apartments that are unsafe. At the present time municipalities don't have the tools to identify these unsafe apartments. There are a lot of safe basement apartments under illegal zoning. I've closed my eyes; I've admitted to you that I've closed my eyes on those apartments. It's the unsafe ones—and we have to identify the unsafe ones to make them safe. This bill will not give us more power to identify the unsafe apartments.

1520

**Ms Cohen-Schlanger:** If I as a tenant were living in an apartment that was unsafe and I knew it was legal and I would not be out on the street by going forward to identify it, do you think I might come through and talk to you? If I were freezing or if the water weren't flowing properly, do you think that I, if I knew I was not living in illegal circumstances, might come forward and say, "Hey, we've got a problem here"? Do you think that's possible?

**Mr Grandmaître:** Yes, it is possible under a municipal bylaw. I can remember back in 1977, 1978, a group of concerned citizens came to me and they asked me: "Let's have a municipal bylaw that would recognize these illegal apartments if they have been in place for 10 years or more. You should inspect these units and make them safe and render them legal, then we can draw our own zoning bylaw to accommodate these people." What I am concerned about is this bill is making illegal apartments legal, that's what it's doing.

**Mr Mammoliti:** Close your eyes and let it pass.

**Mr Grandmaître:** Identify it; you wouldn't know what that means.

**The Chair:** If we could let Mr Jackson have the floor.

**Mr Jackson:** I'm intrigued by your belief that the passing of the legislation "will encourage more people to add an additional apartment in their houses, thus increasing the range of affordable rentals available in a wide variety of neighbourhoods."

Whether I disagree with you or not is not as important. Are you aware of all the implications that will occur as

a result of falling within rent control and falling under the Landlord and Tenant Act and so on and so forth for some of these—the recording of the income?

**Ms Cohen-Schlanger:** Yes, I think I am.

**Mr Jackson:** I'm not disputing some of your concerns because I feel there is a lot of legal non-conforming accommodation in this province. About one fifth of all the nursing homes in this province are non-compliant and unsafe; that's a fact. But are we prepared to spend hundreds of millions of dollars to retrofit them? We're not.

We are on the verge of telling a lot of people who are providing affordable accommodation—one of the offshoots of this, in my view, and I'm not an outspoken critic of basement apartments, because they serve a need, is that it is going to force civic bureaucrats to come walking into people's homes without any regard to the relationship between the landlord and the tenant and say: "Oh, by the way, this door frame's not wide enough. This should be metal." If you know how rent control works, this is all going to end up on the tenant's load because it's passed through.

I'm not critical of your point of view. I think there's a role for basement apartments for a wide range of citizens. My grandparents couldn't find accommodation. That's the only place they could find when they arrived in this country, so I'm not disputing that. But I really believe a lot of people are going to get out of this business as a result; that's my fear and that's why your suggestion stands out that way. I'm just trying to get a handle on that.

**Ms Cohen-Schlanger:** I agree with you that those people who are just looking for a free pay day, without putting anything into it, may likely get out. But even so—for example, the apartment I had in my home would have passed anybody's standards. Without it, I couldn't have had a home. I'm sure there are a lot of people starting out today who, you know with the price of houses today, cannot buy. The stats tells us that the majority of working people are not buying, cannot afford to buy a home. It takes two high-income salaries.

I don't think this is the solution, the only solution, to our housing crisis. I'm suggesting that it exists and that what we need to do is make sure that the people living in it are covered under the protection of the law. It's not going to solve all the problems. How these things fall out—well, we live in a market economy and the market will regulate how they fall out.

One of the things Pamela was mentioning to me, she was astounded at some of the rents these people were paying. They were paying more for less than she was. She couldn't understand why. You say it's going to fall out on them, but in fact they're getting very little for paying a lot. Do you remember? You were telling me.

**Ms Buist:** Yes, there were many people who were paying exorbitant rent for basically one large room with very poor lighting, not sufficient heat. I was in many a cold apartment where they had extra baseboards being brought in, no private entrance. In fact half of the addresses were, for instance, 39½, and I couldn't even



find them. It was a fiasco of sorts for some of these people.

**Mr Jackson:** I don't disagree with you, but there are reasons for that and it's more complex. It has to do with when a certain type of housing falls within the ambit of control. There is the equalization of rents which occurred in the last eight years as a major focus to rental tenancy payment reforms, so that frankly three-bedroom units are being subsidized by bachelors. That has an effect on people seeking small accommodation.

It's a complex issue. I'm just simply saying that to now integrate this whole group of housing into the system of the Landlord and Tenant Act and rent control is going to very clearly, as we've seen since it was first introduced in this province in 1976, introduce some other implications.

I am less concerned about legalizing illegal apartments, because they're occurring in a variety of institutional settings everywhere in this province; I am more concerned that it will have an adverse effect on the current supply and there'll be a period when rents will go up dramatically and supply will drop. I think that's bad in this economy. Thank you for your presentation.

**Mr Grandmaître:** You got it all in.

**The Chair:** Maybe not quite, but he tried.

**Mr Mills:** Thank you very much for coming here today and bringing this perspective that probably none of us had thought of, the young mother aspect and the need for apartments. I must tell you that I'm so glad to see you and I'm very upset about the process, what goes on in this committee. We had the mayor of Mississauga. It seems she comes in, you can't get a seat back there, the cameras are here, the opposition people load up their benches with their heavies to direct questions.

**Mr Jackson:** Just how much of a lightweight am I?

**Mr Mills:** Well, you know the heavies who are over there; the heavies here, the heavies there. They come here and what they try to do is make the government look bad and make this legislation look bad. When someone comes forward as positive as your group, with a wonderful aspect of it, where are these people, where's the press, where's everybody? They don't care. I make that point because it's been bugging me for two or three days and I got it on the record.

But what I want to do is the perspective of the young mother who finds herself in need of accommodation. We've heard so many presentations that people who live in basement apartments are the undesirables. What do we call those sorts? You know, they're terrible people. I lived in a basement apartment. There's always this perception by municipalities, by politicians, by planners that somehow people who live in basement apartments are undesirables. I'm glad that you're here to put the perspective for the mother.

I want to ask you a question. We've heard a lot from all these people who are down on Bill 120. They say, "Where are you going to put the cars?" It's my observation in my community that young mothers who live in apartments are the least likely to have cars, so I'd just like your comments about this supposed terrible thing

that's going to happen, that you won't be able to park or drive up the streets because of the cars that basement apartments create. I want to get this on the record, you see.

1530

**Ms Buist:** As I said, most of the apartments that I visited had double-car garages with enough room for four cars, I think. Most of the young mothers do not have cars. I don't think I saw one car, as a matter of fact, in all 50 whom I interviewed.

**Mr Mills:** I commend you and your organization and your presentation. I think it was absolutely wonderful and allowed this committee to really understand the aspects of the plight that young mothers find themselves in, single young mothers in the province of Ontario. Thank you.

**Mr Fletcher:** Thank you for your presentation. You support Bill 120. Previous governments have attempted to do things; obviously, they haven't worked. Is Bill 120 the right step? It's not a gigantic step, I know that, but is it the right step, as opposed to what's been going on in previous years?

**Ms Cohen-Schlanger:** I would like to commend the government. I think, as you say, it's not an answer to all the problems, but it is a very positive step forward. We applaud you for it.

**Mr Fletcher:** Are you familiar with the Residential Rent Regulation Act of 1986 that was introduced by the then Honourable Alvin Curling of the previous Liberal government? Let me just read what he said about it. He said, "This is legislation designed to protect families with low incomes as well as those with higher incomes and to protect the handicapped and the elderly."

Bill 120 is the next step. Obviously, the Residential Rent Regulation Act didn't work. Giving the municipalities the right to make decisions is not the way to go, because the municipalities have not jumped on the bandwagon to provide this kind of housing. I think that your testimony today is evidence of that. It's just that we needed a little more government action in order to make sure that the rights of tenants, especially of young mothers, are being upheld. Thank you.

**The Chair:** Thank you very much for appearing before us. As I've told other deputants, the committee will consider this bill clause by clause beginning March 6. That means that's the first time amendments to the bill may be made, the first chance. There's a second opportunity during House proceedings to do that also. Thank you for coming.

#### METRO TENANTS LEGAL SERVICES

**Ms Anthea Pascaris:** Good afternoon. My name is Anthea Pascaris and this is Saara Chetner. We're both lawyers at Metro Tenants Legal Services. Metro Tenants Legal Services is a community legal aid clinic situated here in Toronto. It has been in existence for almost 20 years and its primary objective is to advocate for the advancement of legal rights of tenants in Metropolitan Toronto.

We do this in a number of ways. We provide legal representation to low-income tenants, both individuals and groups, in cases that have the potential of determin-



ing and/or advancing the rights of tenants. We also deliver community seminars on the topics of tenant rights and human rights to various groups in the community but with a particular emphasis on groups that don't normally have access to legal information, for example, new Canadians, refugees, people whose first language is not English, women's groups and so on.

Finally, Metro Tenants provides summary information to tenants, both on our telephone information line and in our office, and as well by duty counsel, who is a lawyer stationed down at landlord and tenant court and is there five days a week full-time. In this last category of providing summary information, Metro Tenants over the past year has provided information to over 8,000 tenants.

Before we get into the substance of our response to Bill 120, I think it's important to explain the underlying principles upon which we base our response. In other words, we want to explain where we're coming from. I think it's obvious that we're tenant advocates and that we view things from the perspective of furthering the rights of tenants.

What are these rights that we seem to be furthering or trying to further? We believe that housing is a right, but the right to housing doesn't simply mean the right to have a roof over your head. I think that if everyone around this table just considers their own housing, people would realize it means a lot more than just shelter.

We believe that it's impossible to define something like the right to housing, because inevitably it's going to mean something a little different to everyone else, but certainly it includes a number of things. For example, it includes access to safe housing, to affordable housing and to secure housing. It also involves access to necessary services, such as health care, child care, transportation. We believe that it's the obligation of our government to ensure through our laws that the right to housing extends to all members of society, not just selective groups.

Clearly the government has taken some initiative along these lines, starting back in 1969 when part IV of the Landlord and Tenant Act was brought into force. The introduction of this part was in response to the recognition of the fact that there exists a real imbalance of power between landlords of residential premises, whose interest at stake is financial, and tenants of residential premises, whose interest at stake is their home. The act sets out many of the rights and obligations of residential landlords and tenants and, in particular, it establishes the grounds upon which tenants can be evicted and the process that has to be followed.

It did become obvious, however, that tenants were subjected to a different kind of eviction that the Landlord and Tenant Act doesn't protect against. People refer to this in a number of ways, I guess most commonly as economic evictions. The reference here is to the situation where the rent is increased either with a frequency or to a degree that both doesn't reflect what the premises are worth and that the tenants cannot afford to pay and either go into arrears and end up being evicted or simply move out. In any event, there was a recognition of this potential for so-called economic eviction and there was the introduction of rent control legislation back in 1975, although

we had seen it before on a temporary basis.

Although the Landlord and Tenant Act and the Rent Control Act extend important rights to tenants, they're an essential element to securing the right to housing. A member of categories of tenants are excluded from the protection of these laws.

There's no rational basis, in our opinion, for denying some tenants such recognizably basic rights simply because of the type of residential accommodation they're living in. Where the premises are truly residential, we believe that the laws must apply equally to all tenants.

Bill 120 is an attempt to extend the fundamental right of security of tenure and other rights embodied in the Landlord and Tenant Act and Rent Control Act to tenants currently living in the unregulated care sector. We fully support this effort.

While we deal with this in our written submissions and we state our support for the bill, we also note that there are a number of inconsistencies and loopholes and problems generally that are created by the legislation. We identify these in our written submissions, but rather than taking you through our written submissions today, we thought we'd approach this in a little bit of a different manner. So what we're going to do now is show you some of the implications of Bill 120 by showing you how the lack of protection affects a particular tenant who currently lives in what will no doubt become a care home once the amendments are passed.

**Ms Saara Chetner:** As Anthea mentioned, we'd like to describe for you the story of a tenant who currently lives in the unregulated care sector. He's part of a group of tenants needing care services in a home who was given very short notice by the new management of the home that they were upgrading it and that they were changing the focus of their services and could therefore no longer offer accommodation to people like him.

He has managed to keep a roof over his head temporarily, though little else, only by hiring a lawyer, with the other tenants in this group, and going to court to challenge the actions of their landlord. In that court case, our legal clinic represents a coalition of tenant organizations which have joined in the lawsuit because of the fundamental issues that are at stake. A central issue is whether the exemption of these kinds of premises from the Landlord and Tenant Act and the Rent Control Act is unlawful and discriminatory.

1540

This is what he says:

"I am a tenant at the home. I am 32 years old. I receive a family benefits disability allowance of \$701 per month. My rent is approximately \$603 per month.

"I moved here about one and a half years ago. Before that, I lived at another home for about a year. Before that, I lived at a mission for a couple of months, and before that, I lived at home from time to time.

"I have my own room and my own key. My meals are provided for me. The staff clean the bathroom and do the laundry. I make my own bed.

"I received a letter on January 15 telling me that I had to move out by March 1. I am not able to move out by



March 1. I have nowhere to go to.

"I have some medical conditions. I am a diabetic, and the nursing staff here give me pills to help my diabetes. They also give me lithium and chlorpromazine. I don't know why I take these medications.

"I don't want to leave. I like my room and I have friends here. I have been able to stay out of trouble while I lived here. I don't want to have to go some place where I know I am going to have to move out again in a little while."

Now, the group was able to get an order of the court prohibiting the landlord from evicting them pending determination of the court case but, as often happens in complex litigation, it got delayed. Six months later, here's what he had to say about his living conditions:

"I wish that the court case would go ahead as soon as possible so that I would know what is going to happen to me. I am very worried that if things aren't sorted out soon, I'll have nowhere to live. The administrator keeps telling me that she wants me to move. She talked to me about this last week. I don't want to go. I want to stay.

"She has come up with a lot of new rules. She says the disabled tenants involved in this case are not allowed into the seniors' smoking room. We are not allowed to use the elevator and we're not allowed to use the front lobby or the side door. We have to go around the parking lot, through an alleyway at the back of the building, in order to get in.

"We're not allowed to sit in the front lobby. We're not allowed to talk to the seniors. I have friends who are seniors, and I like to chat with them, but I'm not allowed to now.

"We're not allowed to eat with the seniors. We have to eat in the activity room in the basement. It's dark and dingy, sort of like a stock room. I think the portions of food are getting smaller. We're not allowed to have seconds.

"I used to have a private room upstairs. My rent was \$603 per month. A few months ago, my rent was raised to \$1,250. I couldn't afford to pay for that, so I had to move downstairs and share a room. Now my rent is \$623 a month. I would prefer to have my own room. My new room is about the same size as my old one, but it's crowded now because I have to share the same space.

"I used to have a view from my room. Now I'm down in the basement. My old room had a telephone in it. I don't have a phone any longer. In my old room, a telephone was included in the rent.

"I think I am being picked on. It makes me feel angry. I am afraid to say anything because I am afraid I will be evicted. The other tenants who are part of this court case feel the same way. I was told that if I didn't like the new rules, I could leave."

What we'd like to do is ask you to imagine that this bill has been passed, and we'd like to see whether it would provide protection for this tenant.

The home would likely be a care home, so it would be covered by the Landlord and Tenant Act. The landlord does not have grounds for evicting the tenant, so as long

as he can pay his rent, he can't be evicted pursuant to the Landlord and Tenant Act.

All of the new rules about where the tenants can't go in the building, not using the elevator or sitting in the lobby, would likely constitute harassment, and there would likely be substantial interference with the tenant's reasonable enjoyment of the premises under the Landlord and Tenant Act. For that the landlord could be prosecuted. Possibly these activities might constitute grounds for bringing an abatement application by the tenant, that is, for a reduction of rent under the Landlord and Tenant Act.

The tenants are forced to eat in a separate room in the basement, and the food portions are thought to be getting smaller and no second helpings are allowed. Some might say that this is a vital service under the Landlord and Tenant Act, and while it hasn't really been withheld, it probably has been interfered with, which again would be contrary to the provisions of that act.

Since meals aren't included in rent in the Rent Control Act, subject to these amendments, that act wouldn't offer the tenant much in the way of a remedy. We're not certain whether it's going to help this tenant that the government has promised that they can monitor the situation with meals and care services.

The tenant described that his rent was raised from \$603 to \$1,250, such that he was forced to move into shared accommodation. That would certainly constitute constructive eviction and it would definitely be an illegal rent increase within the meaning of the Rent Control Act. His phone, which had been included in his rent in the earlier apartment, had been taken away. That would constitute a reduction in services for which he could apply for a rent reduction.

But then we come to the more subtle issues, that the tenant feels picked on and afraid to say anything because he's frightened that he will be evicted, frightened that his landlord will find out he's been to see his lawyer to complain about the housing and told that if he doesn't like the new rules, he can leave.

Yes, he might want to swear an information to see the landlord prosecuted, but that will do little to foster an ongoing relationship between him and the landlord and, as he has described, he has no other housing options and very little money. Some would say that he could sue the landlord for breach of contract. I suggest to you that's not a very helpful remedy under these circumstances.

We would ask the government to consider following through on the other recommendations that were made by Dr Lightman in his report, so that there are other avenues of support available to this tenant.

Perhaps one of the most frightening things is that if the staff at the home stopped assisting him in the taking of his medication or cut off his meals altogether, this tenant would not be simply inconvenienced. The activities of daily living for this gentleman don't constitute incidents. His health would be permanently jeopardized if that were to happen.

**Ms Pascaris:** As everyone is aware, a number of concerns have been raised by landlords about these



amendments. It's our feeling that some of these concerns stem from a lack of understanding of how the Landlord and Tenant Act actually works, and frankly, it's not surprising, given that these landlords have never been subject to the provisions of the Landlord and Tenant Act before.

One issue that seems to keep appearing is the concern about a tenant's right to sublet, found in section 89 of the Landlord and Tenant Act. As I understand it, the concern is that if tenants who genuinely need the premises and the provided services in the premises then sublet it out to a tenant who doesn't need these services, somehow this sublet will be undermining the whole purpose of the accommodation.

I can see this is a real concern if the right to sublet was an absolute right, but it isn't an absolute right. It's very clearly set out in subsection 89(3), which says, and I'm just going to paraphrase now, that a tenancy agreement may provide that a tenant can only sublet the premises with the prior consent of the landlord.

Now it's true that this consent cannot be unreasonably withheld, but it is difficult to imagine, at best, that a court would consider it anything but reasonable for a landlord to deny consent to a proposed sublet where the effect would be to change the use of the premises to something other than what it was intended for. This is particularly so given the demand for accommodation in which care services are provided.

It's our feeling that what this concern really highlights is the obvious need for education about how the legislation works and how the relationship between residential landlords and tenants is meant to exist.

Although we don't intend to go into any great detail about the amendments to the Planning Act, more than anything else simply because of a matter of time constraint—it is in our brief—we do want to show our support for the amendments which restrict municipal power to exclude apartments in houses and garden suites in residential areas.

1550

Distilling this item to its absolutely simplest form, it's our view that there are essentially two problems created by bylaws that prevent the creation of apartments in houses.

First, entire groups of people are denied access to certain neighbourhoods because of restrictive zoning bylaws. This kind of unequal treatment is discriminatory and completely unacceptable.

Second, the tenants who do live in what are technically known as illegal units are not guaranteed the same rights as tenants who live in legal units. This is particularly reprehensible given that the illegality is not the tenants' fault and most often exists without their knowledge at all.

The hundreds of inquiries we receive from tenants each month through our summary information service illustrate that tenants who live in illegal apartments in houses suffer from chronic problems of disrepair, unsafe conditions and violations of their privacy. I think what I need to point out here is that people call us when they're in need, so obviously there are going to be situations where

basement apartments are perfectly fine, or apartments in houses, but we hear about the problems and the problems that we hear about are chronic disrepair and privacy.

These tenants are usually shocked—it's incredible. They're shocked to hear that they don't have the same rights as they did when they lived in a high-rise apartment and they're even more shocked when they realize that they risk losing their housing if they complain to their landlord or to the building inspector, as we would normally advise tenants to do when there are problems with repairs.

It's clear from our experience that apartments in houses are a crucial source of housing for low-income tenants. Even so, there are people who oppose the amendments on the grounds that they will result in an overburdening of community services to the point where communities will be paralysed. The examples so often used are that there won't be enough parking spaces, that the park space will be limited etc.

It's our position that there is no evidence to support this, but, perhaps more importantly, these concerns deflect attention from the real issue behind the amendments. In our view, the provision of housing far outweighs the need to sustain secondary services such as parks and parking to the extent that they once were available.

Although these amendments are a step in the right direction, there are shortcomings and we encourage you to look at them in our brief.

**Ms Chetner:** We urge you to consider our written submissions and to reconsider the gaps that will remain if the legislation is passed as it is. We endorse the detailed and thoughtful submissions of the Inclusive Neighbourhoods Campaign that were made before you, and during your clause-by-clause review we would ask that you reflect on the specific amendments recommended by the Tenant Advocacy Group. That being said, we urge you to stand by the principles that underlie this legislation and move forward with the expansion of coverage for all tenants of our tenant protection laws.

For these kinds of reforms to be meaningful, you're going to have to support an educational process to accompany them. All of the landlords and tenants who are being brought under this regulatory framework need information about their rights and obligations so that they can make informed decisions and understand the procedures that are going to apply to them.

**Mr Jackson:** Is it possible for you to share with the committee the address of the case that you were quoting from extensively?

**Ms Chetner:** I'm going to have to decline to do that because, as the case is ongoing, we feel that there is a concern about retaliation.

**Mr Jackson:** It's in the courts now?

**Ms Chetner:** Yes.

**Mr Jackson:** You mean the landlord doesn't know he's in court?

**Ms Chetner:** I'm sure the landlord is quite aware of that.



**Mr Jackson:** I guess I get your point. We have combination facilities. I just wanted to satisfy myself that we were not dealing with a case involving a long-term care facility which is part of a retirement home facility—

**Ms Chetner:** No, it isn't.

**Mr Jackson:** —for the simple reason that the recent legislation caused about a \$150-million increase to tenants' costs who were in those facilities, and the legislation is unclear where there are joint or transitional facilities, especially for seniors.

That raises concern because the disabled community has been specifically ghettoized into seniors' housing, which is unfair to them, and seniors have some concerns. So both parties are not terribly happy. I just wanted to be satisfied that you weren't suggesting some elements of the case which may be applicable.

I did want to ask you about the notion of cases where people are in retirement homes, for example, and they're in joint accommodation, a husband and a wife, and for various reasons—there are manifestations of violence, the onset of Alzheimer's, a number of things—we've been called in to try and find immediate housing to separate the two because of the safety of the non-offending party.

There has been some concern and you as legal advocates would have also some concern. How do we protect cases such as that where people need to be found accommodation and separated from each other, but not go through the arduous rigours of the Landlord and Tenant Act? Of course, we are going to be overlaying on to this whole process the Advocacy Commission, which is going to invite a fourth party into the living room, which is small enough as it is in many of these facilities.

Could you help us to better understand now how, with all those complexities, we're actually being helpful to (a) a whole cohort of people who may be placed by the state inappropriately in a facility, which I believe is part of the problem of your client, and (b) families who, for necessary reasons, need relief from each other in a caring and sensitive way and not to have a bunch of fourth-party individuals determining that the non-offending spouse has to prove that there's been an offence?

**The Chair:** The question has been asked.

**Ms Chetner:** To answer your first question, the particular home that was described by the tenant is not a long-term care facility within the meaning of the new legislation relating to those.

**Mr Jackson:** To retirement homes?

**Ms Chetner:** That's correct. Secondly, the tenant is not our client. We represent a coalition of tenant organizations that intervened in the lawsuit. I believe your other question related to the arduous implications of the Landlord and Tenant Act in situations where there are perhaps concerns about safety.

It is our experience with the Landlord and Tenant Act that tenant disputes or problems between tenants are very complicated and that there is no one clear way to address them. These tenants were not placed in an institution. This was housing that they moved into and were paying rent for. Similarly, where there are situations of domestic violence, I would suggest that an appropriate response is

to involve the police. There are also services for women who are in need of shelter temporarily that might be appropriate in circumstances like you're describing.

**Mr Jackson:** If you can find one that will take a woman over the age of 50.

**Ms Chetner:** Absolutely. That's a problem. I'm not sure how that problem is necessarily created by bringing this kind of housing under the Landlord and Tenant Act when currently there are no effective means of response.

**Mr Fletcher:** Thank you for your presentation. A couple of things. Has business picked up over the years? Is it getting bad out there?

**Ms Chetner:** It's constant. The more we increase our services, the more response and need there is. It's a continuing need.

**Mr Fletcher:** What do you think about houses, care givers, therapeutic rehab? Should they be exempt, in your opinion?

**Ms Chetner:** As we've described in our brief, we believe that residential premises should not be exempt and we feel that providing a very strict definition of what rehab or therapy accommodation would be exempt is a move in the right direction so that really the idea behind exempting that kind of accommodation is that there's some other regime that governs it.

For example, I believe Mr Jackson referred to nursing homes earlier. There is a regime under the Nursing Homes Act that provides an alternative measure of security for the residents who live there. We support a very restrictive definition but one that's much clearer as to what kind of accommodation should be exempt.

**Mr David Winniger (London South):** Thanks for your presentation and for providing a case study to focus our discussion today. It seems to me that the illustration you've provided may go beyond the ambit of Bill 120 in that you indicated to us that Bill 120 and the reforms therein will go a long way towards alleviating this individual situation. However, you also referred to changes in the level of care provided to this individual.

I'm just wondering, first of all, whether rent control officers, for example, would have the required expertise to deal with level of care. It seems to me that there's a whole constellation of statutes that will come to bear on this individual situation—long-term care reform, mental health reform, social assistance reform, advocacy, just to name a few—which will serve to ensure that this individual gets appropriate and sufficient meals. I'm just wondering whether you're not asking too much for Bill 120 things that will be provided under other legislation, programs and services.

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**Ms Chetner:** Some of the other legislation that you've referred to, we don't know when those reforms are coming. We're considering what has been presented in this bill. We would certainly have to agree that rent control officers till now probably haven't had to deal with these kinds of issues, but we have faith that they could receive appropriate training. It's not as though the parties come to them without experience they bring forward. We're not entirely certain whether this system will be



able to respond or not.

What we wanted to do in presenting that case scenario for you was to show you where the gaps are and that not covering meals and services poses a tremendous problem for the security of this tenant. As we say in our brief, not covering meals has the potential to deregulate a whole sector of accommodation that has until now been fully regulated. We would encourage you to reconsider bringing meals under rent control for care homes as well.

**Mr Daigeler:** I just wanted to make sure that I fully understood your answer to Mr Fletcher. You're saying that you support exemptions for rehab institutions as long as they are narrowly defined. Is that correct?

**Ms Chetner:** What I said was that we support the amendment because it defines what previously was not defined in the legislation.

**Mr Daigeler:** What amendment?

**Ms Chetner:** You were asking about the rehab and therapy definition. Yes, we support the amendment that clearly defines what rehab and therapy accommodation will be exempt.

**Mr Daigeler:** You're supporting what's in the bill now or an amendment to the bill?

**Ms Chetner:** No, we are supporting the amendment that is contained in the bill.

**Mr Daigeler:** Normally when we have clause-by-clause there will be amendments coming forward to what is before us. Okay? You are supporting leaving the bill the way it is. Is that correct?

**Ms Pascaris:** Not entirely.

**Ms Chetner:** With respect to rehab and therapy, that is correct. In fact, we would suggest that if you remove any of the criteria in that definition, you seriously threaten to undermine the restrictive nature that has been so carefully structured.

**Mr Cordiano:** I'm a little concerned about the question of meals and your desire to regulate meals. It's my view that once you put a minimum, because that's what it is, in terms of increases in prices for services, the provision of meals, you'll get the minimum quality for the provision of those meals. It becomes a very complicated thing to monitor and regulate, so I am reluctant to do it by way of the Rent Control Act. I think there's got to be some concern about that, with respect to those services being provided in the highest quality possible, but whether that should be done under an act is another question.

**Ms Pascaris:** I understand that concern, to begin with. However, I have to say that everything that is under rent control right now sets a standard, so to speak. When landlords want to increase facilities in their buildings, they then apply to rent control to increase the rents. There would be nothing to preclude them from doing this for meals.

Then the tenants are given the opportunity to speak and say, "Well, as a matter of fact, there were no repairs done," or "The situation's the same," or "As a matter of fact, the meals are horrible now. We're getting half the quantities, to be truthful." There's that opportunity there.

I don't see that there's any real difficulty in doing this other than the initial hurdle of incorporating it into the existing system.

**Mr Cordiano:** I think there are real practical problems, but we don't have time. The Chairman's going to cut me off.

**The Chair:** Thank you, Mr Cordiano. Thank you for appearing before us today. As I've told others, the clause-by-clause consideration of this bill begins March 6.

#### DISABLED WOMEN'S NETWORK ONTARIO

**The Chair:** The next presentation comes from the DisAbleD Women's Network Ontario. While they are coming up to see us, I would just inform members that we have a letter all members should have on their desk from the assistant deputy minister of the Ministry of Housing in response to a question about eviction.

**Ms Robyn Artemis:** Good afternoon. My name is Robyn Artemis and I am on the board of directors of DAWN Ontario.

**Ms Jacquie Buncel:** Good afternoon. I'm Jacquie Buncel and I'm the executive director of DAWN Ontario.

**Ms Artemis:** The DisAbleD Women's Network, DAWN, Ontario, is a province-wide organization for women with all types of disabilities. DAWN Ontario was established at a provincial symposium of women with disabilities in 1986 to create a voice for disabled women across the province. We are a feminist organization which supports women with disabilities in our efforts to control our own lives. DAWN Ontario is controlled by women with disabilities.

Our members include both women with disabilities and non-disabled women. We include lesbians, bisexual women, aboriginal women, Franco-Ontarian women, plus women from many other ethnic, racial, cultural and religious backgrounds. Our members are of all ages.

We're here today to convey our support for Bill 120. We support both components of the bill: the legalization of apartments in houses and the provisions which extend tenant protection to tenants whose housing has a care component. It is DAWN's position that housing is a universal right for all people regardless of their race, gender, religion, ethnicity, disability, sexual orientation, age or income status. This right must be upheld by all levels of government. We believe that Bill 120 takes an important and much-needed step in providing protection under the law to disadvantaged people.

Women with disabilities are disadvantaged on many different levels. Society discriminates against us in countless ways. As women we are considered second-class citizens and as people with disabilities we are subject to both individual and systemic forms of discrimination. In addition, we are often low-income, as many of us are unemployed because of historical inequities in the workplace and because of the refusal of employers today to accommodate our needs. Many of us are racial or ethnic minorities and therefore experience prejudice and other forms of systemic discrimination. As well, many are single mothers, lesbians, young women or senior citizens.

Because we belong to so many minority groups and because society perceives that disabled women are



vulnerable and therefore can be taken advantage of, it is crucial that we are guaranteed rights under the law for all areas of our lives. This includes employment and the protection of our safety and security and the right to safe, affordable and accessible housing.

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Accessible housing means providing any accommodation that a woman with a disability needs to live independently. One form of accommodation would be making an apartment accessible for wheelchair users by installing ramps, handrails and large door frames etc. Other forms of accommodation might include providing attendant care, meal provisions, deaf fire alarms or accommodation for a dog guide, such as an area where the dog can be relieved.

There is a crucial shortage of accessible, affordable units in Ontario. In many public housing buildings and cooperatives, there is only one accessible unit per floor. DAWN Ontario receives many inquiries from disabled women looking for accessible housing. Women often have to wait two to three years on a waiting list before an accessible unit becomes available.

Once a disabled woman obtains a unit, she often encounters discriminatory attitudes on the part of the housing management and/or other tenants. For example, a blind woman might be harassed by housing management about where she relieves her dog guide. Also, women who use wheelchairs may have difficulties in accessing the laundry, recreational and waste disposal facilities. Problems around physical access affect also women who are blind or have visual impairments.

The Inclusive Neighbourhoods Campaign has made several important recommendations calling for amendments to Bill 120 regarding physical accessibility to new apartments in houses. We support these wholeheartedly. We call on you to amend Bill 120 as follows:

First, that a special provincial fund be established to encourage and assist home owners to create accessible units and barrier-free design. Home owners who want to make an existing unit accessible should also be able to access this fund.

Second, that municipalities be required to incorporate a physical accessibility assessment in any approval of a building permit for the creation of an accessory apartment in an existing house. If a proposed accessory unit can be made accessible, the home owner should be informed of funding that is available for making the unit accessible.

Third, that the building code be amended to require that all new housing and apartments in new housing meet standards of universal accessibility, including minimum doorway and hallway widths, reinforced bathroom walls for grab-bars and entrance specifications that will allow conversion to accessible units without difficulty.

Fourth, that the Ministry of Housing monitor accessibility of accessory apartments over the next two years. If intensification reduces the percentage of accessible units on the market, the ministry must ensure that a higher proportion of accessible units is provided by non-profit housing developers and the Ontario Housing Corp.

**Ms Buncel:** Women with disabilities should have the

right to live wherever they choose. Zoning bylaws which keep out disadvantaged groups from particular neighbourhoods are discriminatory and must be changed. Psychiatric survivors and people with developmental disabilities have historically been segregated into particular areas because of not-in-my-backyard syndrome attitudes. These people are often excluded from the lower-density neighbourhoods, which are generally well served by community, educational and recreational services.

Bill 120 will end this kind of discriminatory zoning and will allow people with disabilities, as well as racial and ethnic minorities, immigrants and refugees, first nations people, gay men and lesbians, seniors, youth and single parents the right to live in the community they desire.

The Inclusive Neighbourhoods Campaign has clearly articulated the connection between municipal zoning bylaws and discrimination of basic human rights. For this reason, DAWN Ontario has formally endorsed the platform of the Inclusive Neighbourhoods Campaign.

Tenant rights must also be extended to individuals living in homes which offer any sort of personal care. People with disabilities who are living in group homes, private retirement homes and any homes where there is some assistance with daily living must have basic tenant rights such as the security of tenure, the right to privacy and to safe and healthy living conditions and the right to enforce their rights without fear of retaliation.

Tenants should not be held hostage by the whims of an unscrupulous landlord in order to have their basic living needs met, such as meals and attendant care as needed. Bill 120 will do much to guarantee tenants living in care facilities rights and protections under the Landlord and Tenant Act and the Rent Control Act.

However, we are concerned that the bill in its present form states that for units with a care component the cost of meals will not be included in the total rent. This could mean that a landlord could increase the charges for meals as frequently as he or she chose. This could have serious implications for a tenant living in one of these facilities.

For example, a landlord could threaten to withhold meals or actually withhold them as a way of punishing a misbehaving tenant. This could discourage a tenant from speaking out about this and other kinds of abuse which may be occurring. Also, if a landlord keeps increasing the charge for meals, a tenant might be forced to move because she could not afford the new rent which would include this new meal cost. This denies tenants security of tenure.

It is critical, therefore, that there is government regulation of all services that tenants depend on in order to live their daily lives as independently as possible. Women with disabilities living in care facilities need this bill to be strengthened so that they can be on an equal footing with their housing and attendant care givers.

We would like to stress to you that there must be a strong educational component in the implementation of Bill 120. Often women with disabilities are isolated and are not provided with information about their rights. It is the responsibility of the government to conduct an



extensive information campaign to inform tenants of these new changes in the law which will affect their living situations. This information must be provided in clear language so that it is accessible for all people. It also must be made available in alternative formats such as Braille, audio tape, computer diskette and large print.

The Ministry of Housing, which we assume would take the lead in this campaign, must take a proactive approach in distributing this information. The information must be sent to all housing providers, landlords and residents who may be affected by this new legislation.

In conclusion, we hope that you consider our recommendations seriously for amendments to the bill in the areas of accessibility requirements and regulation of meals and other services. We commend this government on introducing Bill 120 and we hope that you proceed to pass it with these changes as soon as possible.

**Mr Gary Wilson:** Thanks very much for your presentation, Ms Artemis and Jacquie. So nice to see you here, a bit of a surprise, but nice to see that another person from Kingston is working on this bill and we'll get it the best possible now.

**Mr Owens:** It is the people from Scarborough who have put it through.

**Ms Buncel:** Kingston or Scarborough, whatever—my history.

**Mr Gary Wilson:** You've raised a number of issues that really round out a lot of things that we're considering and it will be helpful in our discussion.

There is the issue of the food care costs that a number of people have raised. We are considering that, of course, but on the basis of the delegation, although it's probably not quite so wide open as you suggest. There are conditions that the landlord would have to meet under the Rent Control Act that, if the food were denied, there would have to be a compensation in the cost of the rent. It should come down in compensation for that.

The other is the information package which implies a contract. If the person were to go to court, which I know is awkward, it certainly isn't a good situation to be in that you're denied meals under probably awkward circumstances that would mean going to court wouldn't be that easy. Obviously you need food quickly. So it is something we are considering.

The other thing is if it applied to more than one, if it would be a handful or a group of tenants it would be considered to be a conversion, which would be illegal under the act as it's written now because of the conversion of rental housing, which is protected now under the bill.

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I'm wondering about some of the things Ms Artemis raised about the accessibility, which is so crucial. I just wonder whether you have some awareness of how many home owners might be willing to put in accessible apartments. Does your organization have a registry or does anyone ever come forward and say that they would be interested in doing that or would you think it would have to be an active education program to generate the interest among home owners?

**Ms Artemis:** I would think it would be an active information and educational program, an active initiative on the part of the government to get these initiatives going. But I know that many home owners have asked. If we do have funding, we would be able to make these apartments more accessible.

**Mr Gary Wilson:** Did you have a question, Steve?

**Mr Owens:** Ms Artemis, Ms Buncel, finally we're here to deal with an issue. Jacquie, before DAWN stole you to work as their ED, worked in Scarborough. So we've had a satisfying working relationship in terms of getting this piece of legislation to where it is today. I want to thank you for your assistance.

Your group raises an interesting issue. I was looking through our summary of recommendations because I was positive that I had heard a recommendation or a comment that disabled people should not be allowed to live in accessory apartments, in basement apartments. I was wondering how you would respond to that, people raising the good old fire spectre and how would a disabled person get out of the basement. In terms of those kinds of myths, how would DAWN respond to that?

**Ms Artemis:** That would be referring to the definition of "disability" also, because not all disabled people use wheelchairs.

**Mr Owens:** Absolutely.

**Ms Artemis:** So that also includes, as I said, as we point out in the report, having deaf fire alarms, which you can get through the Canadian Hearing Society, or having rough-textured flooring on the stairs so it's easier to get up and down the stairs and having another access or a bigger window to get out the window if need be. You really have to look at the definition of "disability."

**Mr Owens:** So what you're saying—

**The Chair:** Mr Cordiano.

**Mr Owens:** —is it would need some thoughtful planning for a change of pace.

**Mr Cordiano:** I heard my name mentioned in vain.

**Ms Buncel:** I think as well our position is that disabled women should have the right to access any services or facilities that an able-bodied person is able to access. To say that disabled people can't live in basement apartments is very discriminatory and really doesn't reflect the reality of all disabled people in any way.

**Mr Cordiano:** I would just like to put forward the view that it's important—

*Interjection.*

**Mr Cordiano:** I hate those distractions from the other side, Mr Chairman, especially at this late point in the day.

**The Chair:** Through the Chair.

**Mr Cordiano:** I'll try to ignore them and deal with what I think is really critical in this legislation with respect to accessory apartments. The fact of the matter is that once Bill 120 passes, there will still be a huge number—as a matter of fact, some estimates are that half the number of basement apartments that exist are not in compliance with building code requirements. After Bill 120 is passed, that still will be the case.

Obviously there are going to be requirements of these owners of the units to bring them up to standard; whether they will or not is another question. We've heard estimates that it could cost as much as \$5,000 to \$10,000 to bring these units up to standard to meet building code, safety and fire code requirements. For some of these units obviously the building code will require two entry points, and it's going to be difficult to do that without spending some additional dollars in renovation costs. So for me, the real question is, what practically will result from the implementation of Bill 120? Just saying that basement apartments are to exist as of right will not make them safe places to live.

**Ms Buncel:** No, but that's the point of Bill 120, that there are standards in it that municipalities will have to pay attention to and that landlords will have to pay attention to with regard to those basement units or generally apartment units in houses. There are so many benefits for tenants and for the range of low-income people, disadvantaged people, people with disabilities if this bill is brought forward and if it becomes law. You can look at the costs for the landlord—

**Mr Cordiano:** I'm not suggesting that. All I'm saying is that if the landlord is stuck with the proposition of having to spend between \$5,000 and \$10,000—and I'm talking about someone who's got a first home, a starter home, and he's struggling to make his mortgage payments, as the case has been made here often—he doesn't have additional dollars to put towards a renovation. This is going to be rather difficult for them. So the tendency might be to continue with the illegal situation. A tenant might be reluctant to turn the landlord in, because he might lose his place to live.

**Ms Buncel:** But once this bill becomes law, then the tenant will be guaranteed the rights under the Landlord and Tenant Act.

**Mr Cordiano:** But then there's also the right of the landlord to simply say, "I'm not going to put this unit up for rent."

**Ms Buncel:** But then the tenant can take the landlord to court, which at this point—

**Mr Cordiano:** No, because the landlord would turn around and say, "I'm going to use this premises for my own purposes."

**Ms Buncel:** I think that's always the danger that a tenant can have in enforcing his rights, especially in an apartment in a house.

*Interjection.*

**Mr Cordiano:** You're starting to get on my nerves in a big way, because quite frankly—

**The Chair:** Mr Cordiano—

**Mr Cordiano:** On a point of order, Mr Chair: I think being rude and obnoxious is not one of those things that is called for in committee.

**Mr Owens:** Why are you badgering the witness?

**Mr Cordiano:** I was attempting to have a discussion with the witness. I was asking questions. To be interrupted by rude catcalls from the other side is inappropriate at any time during a committee hearing. I would

appreciate some decency from the members on the other side.

**The Chair:** All members would know that interjections are always out of order. Mr Jackson.

**Ms Buncel:** Sorry, I wasn't finished responding to the question. If a landlord doesn't want to upgrade the apartment and decides to pull it off the market, I think certainly that's the landlord's choice, especially if it's an apartment in his own home. We don't want to force home owners necessarily to rent out an apartment when they don't want to do it.

But what we're looking at, what we want are safe conditions with proper standards for tenants living in the apartments in houses. That's what this bill will guarantee, and it will give tenants the right to enforce those standards under the law, which at this point they don't have.

**Ms Artemis:** One of the recommendations that the Inclusive Neighbourhoods Campaign and we also have is that the government build in a fund for landlords so that they are going to be able to make the units accessible.

**The Chair:** Thank you for your patience, Mr Jackson.

**Mr Jackson:** That was the point I wanted to proceed with. When I listen to my constituents who are not ambulatory and are challenged in that way, they indicate to me that there is insufficient social housing for them and there's insufficient private sector housing. We've seen a number of programs that assist to convert and modify residences, and those programs have been declining. Even more important, programs like voc rehab are tied to conforming zoning, so there are a lot of catch-22s.

I have a series of questions which have less to do with the bill, because I don't think the bill addresses your needs. You set out, from my last count, four further amendments that you're seeking in order to really meet your needs.

**Ms Buncel:** Five, including the meals regulation, changing that. That would be a fifth recommendation for amendment.

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**Mr Jackson:** Okay, but we've heard that from a variety of people. I want to stay focused on the handicapped access, because in my view, the legislation will be hollow unless we somehow deal with who's going to pay for the conversion. I'm afraid that once it goes into the rent control loop and they say, "This person has an unfettered right to remain here and you now have to modify"—I'd like to know which law would say they have to modify to meet your needs.

Once we get past that, who's going to pay for that and will that then become a condition placed on them? Should we be looking at the approach of going to the minister responsible for the disabled and saying: "Look, your fund is inadequate. We're now offering extending certain accesses to the same group because they're seeking accommodation in this less costly environment, and therefore they should be eligible to make application"?

I want to try and get at that, because finding the accommodation is enough of a barrier as it is, but now to be in one which needs the modification, who's going to



pay for it? It could be helpful to the committee to give us a finer look at that.

**Ms Artemis:** In my opinion, it would be a combination of ministries. One would be the Ministry of Housing, another one may be ODI, in connection with each other. DAWN's philosophy is that we are all human beings and we are all people so we all have a right to live where we want and have the rights of all other people, so we really think it would be the Ministry of Housing that would provide that funding.

**Mr Jackson:** For the record, you're not having difficulty with whether or not the home is privately owned or social housing or whatever, as long as this benefit accrues to the tenant, the presence of the tenant, and not necessarily whether the landlord owns the building or whether or not the landlord is non-profit—because that is a consideration and a concern. There have been barriers to who is eligible, which you're more familiar with than I am.

But I want to make sure that your position is that everyone be available, because if it isn't, my fear is that persons who are disabled in existing units will, for whatever methodology used, be forced out because they'll interpret the legislation as, "Boy, I'm going to have to pay for these modifications; I'm going to be caused to do them under a rent appeal to justify my rent, when I'm not providing these services." I'm fearful that people will say, "Look, I'd rather not have you as a tenant any longer, because you have these new rights."

**Ms Artemis:** That shouldn't be the responsibility of the landlord; that should be the responsibility of the government to provide the funding to the landlord. We take the position that we need the choice to be able to live wherever we choose.

**Mr Jackson:** That's been very helpful and clear for the record.

**Ms Buncel:** We were talking as well specifically around home owners being able to apply to a fund that's similar to the kind of fund that had been set up before for home owners to access loans to upgrade their apartments. We were recommending that the fund also be made available around accessibility, so we were specifically looking at home owners.

**Mr Jackson:** With fewer impediments, unlike tying it to a minimum maintenance standards bylaw and all these other nonsenses, the bells and whistles that have come with these programs over the last decade.

**The Chair:** Thank you very much for coming today. I'm sure that your views will be considered during the clause-by-clause consideration of this bill, which begins on March 6.

FRANK LEWINBERG

**The Chair:** The next presentation is Frank Lewinberg. Good afternoon, sir. The committee has allocated 15 minutes for your presentation. You should introduce yourself, and you may begin.

**Mr Frank Lewinberg:** I'll read this presentation very quickly so that you can then ask me any questions you may have. I should say at the outset that my remarks relate purely to the previous Bill 90 aspects of this bill.

I'm not familiar with the additions to Bill 120 that have been added since Bill 90 came through, so it's essentially the accessory unit question.

I'm trained as an architect and an urban planner and have accumulated some 25 years of professional experience, initially in municipal government and now as a partner in the firm of Berridge Lewinberg Greenberg, private consulting and urban planning. I am here, however, in my personal capacity.

I have carefully considered the legislation that is before you. My professional involvement in this issue goes back to 1981, when our firm, together with four other firms, was retained by the Ontario government to undertake a major study of all the issues surrounding the existing housing stock. It cost more than \$300,000.

Our study was published in 11 volumes in 1983. One of its primary recommendations was that Ontarians be permitted to make better use of existing houses and that this was in the best interests of individual owners and tenants, communities, as well as the province as a whole. That study was funded by a Conservative government.

Following our study, it became government policy to encourage conversions in the existing housing stock and the Minister of Housing, Claude Bennett, frequently called upon municipalities to change their regulations to permit such conversions in all neighbourhoods and all communities.

I was retained by the same government to then prepare a report that would explain our study to laypeople on councils, in planning departments and in communities and, in particular, to answer any concerns they may have. The report, known as *In Your Neighbourhood*, was published by the government in 1984. I still stand by all its conclusions.

Since then, as you know, Ontario governments have undertaken a number of initiatives and studies to demonstrate that conversions in existing houses will cause no problems. It has funded local studies in order to assist municipalities in making the zoning changes to permit a second unit in existing homes.

My next direct involvement in the issue was funded by the Liberal government when it funded the city of Scarborough to undertake such an implementing study. Again, that provincial government had endorsed the policy position. Minister Chaviva Hošek made speeches to that effect, as did her successor.

In Scarborough we completed the analytic part of our study, presented our findings to the council, making it clear that changes to permit a second unit in existing homes should be made, only to have the study halted indefinitely. When the municipal politicians realized that we had found no basis to recommend against legalization of conversions, they pulled the plug.

They were not prepared to legalize a process that had been under way in Scarborough openly and illegally to the full knowledge of everyone. We found that between 9,000 and 14,000 units, or 10% to 15% of the homes in Scarborough, had been illegally converted already. They were not prepared to sanction it publicly, even though all the advice they were receiving recommended it.

There is a huge difference between the fears of what might happen and what is likely to happen following legalization. It is easy to ignore the research that has been done and play only upon fears. This is NIMBY writ large. There is very good research and obvious parallels to be drawn to counter the fears, but the municipal politicians have nothing to gain in taking a chance and stirring up their voters. Municipal councils are terrified of touching their existing neighbourhoods and, as far as I can see, they will never do it.

To permit a second apartment in homes will not destroy neighbourhoods. On the contrary, it will strengthen them. It will allow neighbourhoods to change physically to respond to the changing population structure that every neighbourhood is experiencing and has experienced, changes like a rapidly aging population and increases in the variety of household types that now comprise our society.

It will not be attractive for absentee landlords, as it is a poor and uneconomical investment. On the contrary, it will provide a vehicle to permit old people to stay in their neighbourhoods and grant access to home ownership in existing neighbourhoods to young couples hoping to start a family.

It will not add to the fire hazard in neighbourhoods. On the contrary, it will allow both tenants and landlords to ensure safe housing according to building codes and health and safety standards, all municipally inspected.

It will not overtax municipal services. On the contrary, it will begin to bring neighbourhood population levels closer to their design levels, rather than put the burden of taxes on fewer and fewer people, as household sizes continue to decline.

I am confident that this legislation will bring only benefits to Ontario's communities and neighbourhoods. Ultimately, it is the home owners themselves who are the developers here. They will decide whether to add a second unit or not. The forces of change are the neighbourhood residents themselves.

1640

Finally, and most important of all, when the law is seen to be a fool, it makes a mockery of all laws. People in every community across the province are ignoring the current prohibition on conversions and we all know it. It is being done by our families, our neighbours and our friends. The number of illegal conversions can be counted in the many thousands and in every community, denying both landlord and tenant the protection of the many laws this Legislature has enacted for them.

This is not a partisan issue. It is a policy position that has been strongly and frequently supported by Housing ministers from all three parties over the last 10 years. During those 10 years, I do not think one municipality has implemented a full legalization, even though it is now part of the Land Use Planning for Housing policy statement.

There are too many important issues for you and for your considerable staff to spend money and time studying; 13 years and many hundreds of thousands of provincial dollars are surely enough. It is time to put this very

simple issue to rest. The legislation before you takes the most conservative of the routes to legalization possible. I have reviewed it and the proposed regulations. They are carefully crafted to deal at the provincial level with local bylaws. I support them and recommend that you do so without amendment. It is appropriate and good planning. Thank you.

**Mr Cordiano:** I suppose there's only real one question that I have and that is to ask if, in your view, the whole notion of having municipalities involved in this process, determining perhaps around a number of questions whether in fact there should be increased density in one part of the municipality versus another—you're simply saying that those concerns are not there, that there are no problems and that in fact you can have intensification in any part of any city.

**Mr Lewinberg:** Yes, sir. In fact in one of our studies we addressed that issue. Probably the only neighbourhoods that potentially could be at risk are the most low-income neighbourhoods—a neighbourhood like Parkdale, for instance, in Toronto. But that's really dealt with by the fact that only one unit is allowed and Parkdale is really the issue of having very large existing homes which were in fact converted into many, many small units.

**Mr Cordiano:** We heard from a group from Hamilton—and I don't recall their name now—precisely around that question of what happened in the core of the city of Hamilton when intensification took place over the many years that it has been—well, it exists now. In fact the problem has been that you had most of the low-income people in the city of Hamilton obviously residing in the core, because it provided for that affordability and most of the people who were middle income have moved to the outskirts of Hamilton, thereby just leaving low-income persons in the core of the city of Hamilton. That's sort of a snapshot of what can happen in the city of Toronto, I suppose.

**Mr Lewinberg:** In Hamilton and Toronto—they were in fact one of the case study cities, the first study we did for the government. In Hamilton, in fact, it's legal to have conversions. It currently is, as it is in Toronto, as it is in Ottawa. Portions of those older cities pre-Second World War generally permitted it as a right. That's why this particular legislation would have no impact. In fact, in Toronto, Hamilton and Ottawa, you can go quite a lot further than the one unit permitted under this legislation. So this legislation would have no impact on those particular—

**Mr Cordiano:** What I mean by Toronto is North York, Scarborough etc, and those are older suburban areas which are now probably going to be more intensified.

**Mr Lewinberg:** Yes. The fact is all those areas are already. What this legislation does by only allowing one unit is it really only provides the possibility to have one additional unit. The concern behind your question is that landlords will exploit people by carving—

**Mr Cordiano:** By selling illegal units.

**Mr Lewinberg:** Yes, they will have 10 or 20 units.



But that they can do today and they will be able to do it after and before. It has nothing to do with this legislation, as I see it, anyway.

**Mr Owens:** Welcome to the standing committee. I just wonder if you ever thought you'd get to this process to see a government actually moving on recommendations which, as you state, are long-standing. I view this piece of legislation as doing two things: It's the reality check, as you've indicated, in terms of what's out there, and in Scarborough—I represent the riding of Scarborough Centre—somewhere in the neighbourhood of 10,000 basement apartments are there.

We look at this as the reality check, but also in the other part is the issue with respect to giving rights to tenants that currently don't enjoy rights. In reading your report on the Scarborough situation and understanding your CV, you forgot to point out that you are a humorist and that your planning report was actually delightful to read in terms of pointing out the inconsistencies of the positions with respect to the reality versus what the municipal government seems to feel.

I think this bill answers the concerns that have been raised with respect to powers of entry. I've always believed that one doesn't need the unfettered power of

entry to order someone to cut their grass and those are the kinds of issues that we see, particularly in Scarborough, coming up, that municipal officials will not be able to enforce this piece of legislation.

Do you have a view on whether we should have a registry run by a municipality, and how would you see identification of units for the purpose of additional property tax or ensuring that a person was able to present a prospective tenant with some kind of certification, or whatever, to say this has been inspected, it meets the standards?

**Mr Lewinberg:** I think it's just like any other unit. I live in the city of Toronto where it is permitted. In fact many of the houses on my street have second units and they're just treated like anybody else. They are assessed on the basis of having additional units for property taxes and everybody's aware of this situation. I don't think there's any need to create any special kind of categories. We have plenty of regulations, we don't need any more.

**The Chair:** Thank you for appearing before the committee today. This completes the public hearings on Bill 120 for this week. I will see all members next week at 2 o'clock on Monday. The committee is adjourned.

The committee adjourned at 1648.





## STANDING COMMITTEE ON GENERAL GOVERNMENT

**\*Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnett, Ted (Wellington PC)

Dadamo, George (Windsor-Sandwich ND)

\*Fletcher, Derek (Guelph ND)

\*Grandmaître, Bernard (Ottawa East/-Est L)

\*Johnson, David (Don Mills PC)

\*Mammoliti, George (Yorkview ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

Wessinger, Paul (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Cordiano, Joseph (Lawrence L) for Mr Sorbara

Jackson, Cameron (Burlington South/-Sud PC) for Mr Arnett

Mills, Gordon (Durham East/-Est ND) for Mr Morrow

Owens, Stephen (Scarborough Centre ND) for Mr Dadamo

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Wessinger

Winninger, David (London South/-Sud ND) for Mr White

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Luski, Lorraine, research officer, Legislative Research Service

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## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 7 February 1994

# Journal des débats (Hansard)

Lundi 7 février 1994

**Standing committee on  
general government**

Residents' Rights Act, 1993

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
Clerk: Franco Carrozza

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# LEGISLATIVE ASSEMBLY OF ONTARIO

G-1111

## STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 7 February 1994

The committee met at 1428 in the Humber Room, Macdonald Block, Toronto.

### RESIDENTS' RIGHTS ACT, 1993 LOI DE 1993 MODIFIANT DES LOIS EN CE QUI CONCERNE LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** The purpose of the committee meeting this afternoon is to deal with public deputations in regard to Bill 120.

**Mr George Mammoliti (Yorkview):** I understand we have a couple of individuals who want to come and the time has elapsed for the deputants—

**The Chair:** In regard to Bill 95.

**Mr Mammoliti:** My apologies. I ask that we get unanimous consent to extend the time for another week.

*Interjections.*

**Mr Mammoliti:** I'm sorry. This is Monday, isn't it? Extend the time limits to Sunday then, if that's okay.

**The Chair:** Perhaps, Mr Mammoliti, if we just had a motion that would permit those two individuals to appear.

**Mr Bernard Grandmaître (Ottawa East):** There are only two?

**Mr Mammoliti:** Cathy Stephenson and Maria Augimeri.

**The Chair:** Mr Mammoliti has moved that those two individuals be heard during public deputations to Bill 95. All in favour? Carried.

Now we'll get on to the purpose of this afternoon's meeting, which is to hear public deputations on Bill 120.

### INTERCEDE

**Miss Carol Salmon:** My name is Carol Salmon and I am a counsellor at Intercede, which is the Toronto Organization for Domestic Workers' Rights. I'm going to be talking to you today about some of the concerns that our membership, who are mostly domestic workers, have regarding their live-in conditions. I'm going to start off by telling you just a little bit about our organization.

We are a community-based, non-profit organization. We provide information, counselling, advocacy and referral services to foreign domestic workers regarding their immigration status, labour conditions and human rights. We also provide them with a monthly newsletter, educational monthly meetings, support group meetings and recreational activities.

We're funded primarily by the immigrant settlement and adaption program, the Canada Employment and Immigration Commission, the Secretary of State women's program as well as Metro Toronto and the city of Toronto.

We were founded in 1979 by concerned individuals and groups to conduct research and advocacy related to domestic workers' rights. Our service unit opened up in 1984 to assist mostly those workers under Immigration's live-in care giver program.

Intercede has a membership of approximately 1,100 domestic workers. Our service unit receives more than 6,000 contacts by phone each year, and we reach about 3,000 other workers through our various meetings and activities. It is on behalf of these workers that Intercede has been working to obtain changes or improvements to their living and working conditions from the federal and provincial governments.

Intercede is pleased to be part of this consultation process, and we strongly support protection being extended to those tenants whose housing has a care component.

As you may be aware, domestic workers who enter Canada under the live-in care giver program, or LCP, are required to do two years of domestic or care giving work within a three-year period and to live in the home of their employer to be eligible to apply for permanent residence inside Canada. They are restricted to care giving for children, elderly or developmentally challenged individuals.

These domestic workers have temporary status, and unlike other immigrants whose labour is in demand, domestic workers are not allowed to enter the country as landed immigrants and they are forced to live in their employers' homes.

The combination of temporary status and mandatory live-in makes a foreign care giver extremely vulnerable to threats of deportation, excessive overtime work and other abuses. Her ability to control her worklife and private life are marginal. Not only may she be required to do the child care but also the house cleaning, meal preparation, laundry, pet care, gardening and snow shovelling.

She can be on call 24 hours a day. These long and irregular hours and insufficient rest are commonly accompanied by inadequate in-lieu-of time and unpaid overtime. Physical exhaustion, toxic products and machinery and sexual harassment are occupational hazards in her job. She suffers from isolation, loneliness, racist indignities and diminished self-esteem.

Although domestic workers may know their rights, they are often hesitant to assert them because they do not want to jeopardize their immigration status. Their stability, security and privacy are at the mercy of their employers.

A domestic worker under the LCP loses the right to choose where to live and in many cases what to eat. She cannot do much about a damp basement room if that is what is given to her, or if they put her bed in the employer's home office that contains the photocopier and

computer, or if the room has inadequate ventilation or minimal heat in the winter. She also cannot insist that she have a lock and key to her own room.

A very common complaint from domestic workers is that they do not have any privacy in their rooms that they are paying to live in; they do not have locks on their doors; the children can let themselves in; the employers can enter at any time, which is a specific concern as it makes care givers extremely vulnerable to sexual abuse or harassment. Care givers have complained that employers are using their room on the weekends to service overnight guests or weekend workers.

Although it is a room that they are paying for seven days a week, they cannot invite friends over if they want to. Despite the home being their workplace as well as their home, domestic workers are not given a key to the house to facilitate freedom of access. She has to ask permission to leave the house and to give a time when she'll be back.

Some care givers often end up paying twice for room and board because they feel forced to share apartments on the weekends or just so they can get some privacy to be able to cook their own meals and socialize with friends and family.

She does not have much choice of what to eat and often has to eat according to the diet of her employer. The care giver may have to buy food just so she will have enough to eat, but even when she buys her food, the employer will still deduct her board even though she's not there on the weekends.

The LCP stipulates that employers can deduct a portion from their worker's salary for room and board. Ontario minimum wage regulations set out the maximum room and meal allowances that can be deducted. So although there are limits to the amount a care giver has to pay for a private room and for the meals, she is at the mercy of her employer to provide adequate conditions.

When a domestic worker loses her job, she automatically loses her home, which is a very important issue to take into consideration. Many of our contacts have complained that they have been terminated without notice. They are expected to leave immediately with all of their baggage. Some of them have been kicked out in the middle of the night and are just expected to find somewhere to go.

In order to find another place to live, domestic workers may have no choice but to settle for employment that may be unsafe or that they would normally consider unacceptable because they are desperate for shelter and to meet Immigration requirements.

Domestic workers are primarily women of colour in a low-income, underpaid and undervalued occupation. Because of the demand for live-in domestic labour, they are forced to live in the home of their employer while providing care-giving services. As such, domestic workers' rights regarding their living conditions in the employer's home must be protected.

Intercede strongly supports the passing of Bill 120's amendments to the Landlord and Tenant Act. The provision extending tenant protection to those tenants

whose housing has a care component is of particular interest to foreign domestic workers.

Intercede recommends that domestic workers living in the home of their employer be covered under the provision extending protection as tenants whose housing has a care component; also, that domestic workers be given the right not to be arbitrarily evicted from their homes, and also to give domestic workers the right to privacy and to safe and healthy living conditions and the right to enforce these rights without fear of retaliation.

**The Chair:** Thank you. Questions in rotation. The official opposition, Mr Grandmaître.

**Mr Grandmaître:** Tell me, when you people accept employment in Canada—

**Miss Salmon:** You people?

**Mr Grandmaître:** Yes, the domestic workers.

**Miss Salmon:** The domestic workers, okay.

**Mr Grandmaître:** Do you sign a contract with the employer?

**Miss Salmon:** When domestic workers are getting employers, there is no contract that they have to sign.

**Mr Grandmaître:** So you're taking on a responsibility without knowing what your real responsibilities are.

**Miss Salmon:** The employment centre states that the contract is between the employer and the employment centre and that the domestic worker really has nothing to do with it. That's the position of the employment centre, which does not give out contracts any more.

**Mr Grandmaître:** I see. Before you accept employment with a certain employer, doesn't your association visit the home?

**Miss Salmon:** You may have your interview in the home. You're not necessarily shown around. You may have a separate meeting place or you may come in, but you're just sitting in the living room and being asked questions.

**Mr Grandmaître:** But they won't show you your living quarters?

**Miss Salmon:** No, not necessarily. What's primary for a domestic worker is to find a job so she can meet Immigration requirements. If a domestic worker begins asking all sorts of questions, she may be jeopardizing her ability to get that job, to get that employment.

**Mr Grandmaître:** Don't you think it's your right to get all the facts before you take on employment?

**Miss Salmon:** Certainly, but in that same sense a domestic worker who comes here on temporary status, her position is very tentative. They're not here permanently; therefore, they're willing to accept various conditions. Whatever the employer is willing to offer, they feel they have to accept it because they're only here temporarily and they depend on that employer to get their landing.

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**Mr Grandmaître:** Can you explain to me what this temporary status is? Is it a year, two years, three years?

**Miss Salmon:** It's two years of live-in domestic work within a three-year period, and they're not entitled to live



out until they get an open employment authorization.

**Mr Grandmaître:** Let's say that your employer lets you go after 12 months or 14 months. You're out on the street, you have to find employment. But you accepted this job, let's say, in Ontario, to do domestic work, right?

**Miss Salmon:** Right. To do domestic work, to do care giving, yes.

**Mr Grandmaître:** If this employer terminates or breaks this agreement, isn't there an association you can report yourself to and say—

**Miss Salmon:** Please keep me until I find another job?

**Mr Grandmaître:** Yes.

**Miss Salmon:** No.

**Mr Grandmaître:** You're on your own.

**Miss Salmon:** You're on your own, unless you're lucky enough to have friends who don't mind if you impose on them. But yes, you're on your own.

**Mr Grandmaître:** I find it very strange that they would invite you from another country to live under these conditions.

**Miss Salmon:** Right.

**Mr Grandmaître:** And I'm also questioning the fact that you accept to come to Ontario without very little conditions.

**Miss Salmon:** What do you mean by "without very little conditions"?

**Mr Grandmaître:** Well, if you're not allowed to visit your living quarters and the employer doesn't make you feel at home—

**Miss Salmon:** Often they do make you feel at home during the interview. It's different when you're actually living there and having to work there.

**Mr Grandmaître:** And you have no recourse?

**Miss Salmon:** No recourse regarding what?

**Mr Grandmaître:** Well, employment, for instance. If you say you're working five days a week, 14 hours a day or 16 hours a day, there's no limit on the number of hours that—

**Miss Salmon:** Right. They don't have that coverage under the Employment Standards Act that there are certain maximum hours or minimum hours that they can refuse to work.

**Mr Grandmaître:** It's open.

**Miss Salmon:** It's open.

**Mr David Johnson (Don Mills):** Thank you very much for the deputation. It's a different perspective than we've seen on this issue over the past three weeks now, I guess.

I wonder if you would help me, though. There's a question that comes to my mind. I may be missing something, but if a domestic worker accepts employment and lives in, let's say, a basement apartment, which I guess is fairly common, suppose the employer decides that the domestic worker is not performing satisfactorily and—I don't know if this is the word—fires or de-hires the domestic worker.

If the domestic worker is under the protection of the Landlord and Tenant Act—I don't think one of the criteria for eviction is being fired from a job—how would that work out? The domestic would be, under the Landlord and Tenant Act, permitted to stay in the basement apartment.

**Miss Salmon:** An employer is supposed to give them notice of termination.

**Mr David Johnson:** Of the job.

**Miss Salmon:** Right.

**Mr David Johnson:** But if the domestic worker's covered by the Landlord and Tenant Act, the domestic worker is in fact a tenant then, and tenants cannot be evicted from an apartment unless they meet certain criteria: they don't pay their rent, for example, or they cause noise and problems or they trash the place or something like that. But losing employment is not a criterion for eviction, so the tenant would be allowed to stay in the basement apartment, even though she—I think you would use the word "she" here primarily—is no longer the domestic for that particular house.

**Miss Salmon:** There's probably going to have to be something special that's put into consideration to take a look at that issue, but for the most part domestic workers do want to move on. They don't want to stay there for an extended period of time, because they're under a deadline in the eyes of Immigration and they want to get their landed status. If they can't do it within a reasonable period of time, then they'll be rejected.

**Mr David Johnson:** There would have to be something, because theoretically if she had another source of income somehow, she could stay there. I guess there would have to be another arrangement.

**Miss Salmon:** No, because she has to live in her employer's home and she can't have another job. She can't work two jobs at the same time. She can only work with the one that's on her employment authorization.

**Mr David Johnson:** In most cases, would the domestic be in a self-contained unit? In other words, would it have a fridge and a stove, a bathroom and a kitchen?

**Miss Salmon:** That's one of the problems. They sometimes may have their own private room but, as I said, employers say that they can provide them with an adequate room, but when they get there it might just be in the basement, and yes, there may be a door, but it won't have a lock. Will they have a kitchen? No, they're expected to go upstairs to use the kitchen facilities. They may even have to go upstairs to use the bathroom.

**Mr David Johnson:** Under the bill as it stands today, it's my understanding that it would cover a self-contained unit, for example. So if the domestic was living in a self-contained unit with a kitchen, a bathroom, the whole works, then this bill would cover that situation. But under the situation you've described, and I just wonder if this is your understanding, where there's just a room but, let's say, no kitchen, then this bill would not cover that situation.

**Miss Salmon:** That's one of the problems with the situation of domestic workers. They're not covered adequately and they're expected and forced to live in the

home, but they're not provided with the appropriate conditions and an ability to enforce their rights to make sure that their conditions are safe and healthy.

**Mr David Johnson:** Not to put words in your mouth, but you're recommending that this bill doesn't go far enough then, and should be amended to not only include basement apartments but should include rooms, I guess, where domestics live that are not in a sense basement apartments, that do not qualify as an apartment.

**Miss Salmon:** Self-contained.

**Mr David Johnson:** Is that what you're recommending?

**Miss Salmon:** I know there are a lot of varied situations, but domestic workers have the right to be protected in terms of their room, because they're forced to live there. Therefore their conditions should be safe and healthy and provide them with adequate conditions to live in.

**Mr David Johnson:** Are you recommending that all the apartments that domestics live in should be brought up to those standards, should have a kitchen?

**Miss Salmon:** I'm not necessarily recommending that.

**Mr David Johnson:** Okay. I was just trying to clarify. So you're not recommending that. All right. Let me just ask one more then. I know Mr Tilson wants to ask a question.

There has been some thought expressed that if home owners are put under too many obligations in terms of bringing units up to standards—and standards include perhaps more exits, fire exits, for example; making sure that all the walls have fire-resistant material, the ceilings have fire-resistant material; you referred to the dampness, that this kind of thing doesn't exist—and if the cost starts to mount—there was one suggestion from a couple of fire chiefs that they should all be water-sprinklered, for example, in the case of a fire, at a cost of \$1,500 or \$2000—this would cause a number of these units to be closed down because they just wouldn't be economically viable.

Some people say: "That's the way it falls because, number one, they should be made safe. If that means some of them are closed, too bad." Well, they should be made safe, but I wonder if there would be any concern that, if the regulations are too tight, in fact it would actually be closing opportunities for domestics.

**Miss Salmon:** There's still always that demand for child care, elderly care and to look after developmentally challenged individuals, so I don't think that's going to go anywhere. Employers want the domestic workers to live in their home. Domestic workers would certainly prefer not to live in. It's because that's where the demand is.

1450

**Mr David Johnson:** It's your view then, if they have to pay more to do this in the sense of the accommodation, that sort of thing, that there would be those who are prepared to pay more and there will still be the demand?

**Miss Salmon:** I can say they should fix things up to standard, but whether they would or not is a different story.

**Mr David Tilson (Dufferin-Peel):** That's probably the real issue with your comments. My observation is that if you put standards of such—which is, as Mr Johnson says, the suggestion of almost self-contained units which may in some cases be appropriate and in others may not be appropriate, depending on the terms of employment.

There must be an awful lot of people who have the live-in domestic who simply, if they were put to that expense—and I'm not talking about health situations; I'm talking about the types of units where they would have their own kitchens, their own facilities, the standards to meet certain building bylaws—their job would simply be prohibitive to many individuals who request that service. They would have to do something else, which would have the end result of the domestic simply being unemployed or having nowhere to go.

**Miss Salmon:** I don't think the need for child care is going anywhere. I think they'll always be needed.

**Mr Tilson:** With respect, it may be that the individual may not be able to afford that type of child care at home because it would become so prohibitive costwise as a result of government regulations that they may be forced to go to other institutions. Do you have that fear?

**Miss Salmon:** My position here today is not to say that it needs to have a fridge in it and all those other things that are under the self-containment. I'm not here to say that. I won't be able to respond to that.

**Mr Derek Fletcher (Guelph):** Thank you for your presentation. Can you believe the stuff they're saying over there? When people come to this country, I guess they should have the same rights as almost anyone else as far as living conditions are concerned. I agree with that.

I think a lot of what you've been talking about does fall under labour, but some of the spinoffs of Bill 120 could be that, since people will be allowed to build or to construct apartments in their houses and have self-contained units, perhaps now they'll start doing it for people they bring into the country to work in their homes. I know that in some upscale neighbourhoods perhaps they're lobbying not to have this, whereas it could benefit not only themselves—they could have the unit within their homes—but also the people working for them. So I can see a spinoff.

Why not have building codes and fire safety codes for people who are working in their home? It makes sense. You talk about cost. What cost is it to make sure that a person can live as a human being, no matter where they are? I agree with you as far as that's concerned.

I heard about the plight of domestic workers when I was on the committee doing Bill 40. From London, Ontario, Ottawa, all over the province, the stories were heartbreaking about how people were being treated, especially when they were coming here and working for a family and the way they were being mistreated when they were in the care of that family.

I'm just wondering about the self-contained apartment. I believe that's an excellent idea. You said you don't think they need a fridge, stove. Why not? Why not a fridge, stove? Why not a separate apartment?



**Miss Salmon:** I wasn't prepared to be able to discuss that today, that's all. Certainly domestic workers would prefer that, and then they wouldn't have to necessarily find another place on the weekends to be able to cook their own meals. Certainly to have their own fridge and all those other amenities would be better for them, because then their employers wouldn't be able to say, "I don't like you to cook this and cook that in my home," and, "I don't like the smell." If it was in their own space, then certainly that would provide for better conditions.

**Mr Fletcher:** As far as the other things, such as eviction and your job being terminated, that would fall under labour legislation rather than Bill 120, but I can understand your fears. To lose your job and your home both at the same time would be devastating. I was thinking perhaps if the labour legislation was strengthened so that notification was a must, then—

**Miss Salmon:** They are supposed to be given notice.

**Mr Fletcher:** I know it's supposed to be.

**Miss Salmon:** Enforcement is the big problem in all areas related to domestic workers.

**Mr Fletcher:** But when you're a domestic worker, you're not going to rock the boat, so a lot of complaints don't go forward unless there's an organization that can get involved with them. That's something we can look at.

**Mr Gary Wilson (Kingston and The Islands):** Thank you, Miss Salmon, for your presentation. As my colleague has said, it's more properly under the provisions of the Labour Relations Act than the Employment Standards Act that some of these things fit. I'd just like to find out, though, in the experience of your organization have conditions changed in that time within the lobbying efforts that you've undertaken to support domestic workers?

**Miss Salmon:** What types of conditions are you referring to?

**Mr Gary Wilson:** The security of tenure, say, that they get notice, that they're not arbitrarily dismissed.

**Miss Salmon:** They're still continually arbitrarily dismissed.

**Mr Gary Wilson:** There's been no change?

**Miss Salmon:** No change to that. If employers want you to leave, they just tell you to leave and you leave, and you don't say anything about it.

**Mr Gary Wilson:** How often does that happen?

**Miss Salmon:** I would say often.

**Mr Gary Wilson:** You don't keep figures on it.

**Miss Salmon:** If people are contacting us, we'll check off termination, but we don't keep in-depth statistics on that. Certainly, if we had more funding and more resources, then we would be able to keep more extensive statistics, but as it is, with the kind of workload that we have and the staff that we have, it's impossible to keep as specific statistics as people would like.

**The Chair:** Thank you for coming today. We appreciated your presentation. You've brought a new view to the committee that we haven't heard in the last three weeks.

Before we move on to the next presentation, the Chair

at least needs some help with clarification. Maybe someone from the ministry could help me understand the rights of roomers as they presently exist. Is a roomer in Ontario subject to the Landlord and Tenant Act now?

**Mr Scott Harcourt:** I'm Scott Harcourt from the Ministry of Housing. The situation with roomers right now where you're sharing kitchen and bathroom facilities with the owner is that you are not covered under the Landlord and Tenant Act.

**The Chair:** Under this bill, will you be?

**Mr Harcourt:** No, this bill does not change that.

**The Chair:** Is rent control in place?

**Mr Harcourt:** No, the exemption for rent control is exactly the same as the Landlord and Tenant Act in this situation. It is exempt from rent control.

**Mr David Johnson:** Isn't it actually true—this is a fine point—you can have your own washroom but the kitchen is the key thing, as long as you share a kitchen—

**Mr Harcourt:** Correct. I think the wording in the act is "shared kitchen and bathroom facilities." I think if you just had a shared kitchen, you would still be exempt.

**Mr David Johnson:** Certainly many municipalities have geared it on a kitchen.

**Mr Harcourt:** That is correct. You just have to meet one of those two tests and the exemption would apply.

**Mr David Johnson:** Particularly the kitchen.

**Mr Mammoliti:** "Kitchen or bathroom," isn't it?

**Mr Harcourt:** Yes, "kitchen or bathroom." You're right.

**Mr David Johnson:** Is it "or"?

**Mr Mammoliti:** "Kitchen or bathroom."

**Mr Harcourt:** Yes.

**The Chair:** In regard to the presentation we've just heard, domestic workers would be considered roomers under the act, and will be exempt regardless of what happens with Bill 120 and are exempt at the moment.

**Mr Harcourt:** That is correct.

**Mr David Johnson:** Unless they had a self-contained unit, which some of them may have.

**The Chair:** If it's a self-contained unit, it's different.

**Mr Harcourt:** That's correct. If they have a self-contained unit, they would be covered under the Landlord and Tenant Act and under rent control.

**The Chair:** Thank you, I think I have sorted it out.  
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#### CANADIAN PENSIONERS CONCERNED. ONTARIO DIVISION

**Ms Gerda Kaegi:** My organization, the Canadian Pensioners Concerned, is a national organization with provincial divisions. We're one of the founders of One Voice-Seniors Network, the national organization for seniors groups across Canada. We're a volunteer board elected by the membership, and I represent the board on housing issues and on the seniors advisory committee on Canada Mortgage and Housing Corp, Ontario division.

My name is Gerda Kaegi. Thank you for the opportunity to appear. I am sure that much of what I have to say

will have been said before, so thank you for your patience.

We would have preferred two pieces of legislation, one dealing with care homes and the other addressing the legalization and regulation of second residential units in houses "as of right." This approach would have allowed for more comprehensive and clearly focused legislation in both instances. However, Bill 120 is a first step and we urge its speedy passage. We can then continue to advocate for essential additions to the legislation. It is better to have half a loaf than no loaf at all.

I will first address parts I, II and III of Bill 120, those sections that apply to care homes and the rights of their residents. These sections apply to proposed amendments to the Landlord and Tenant Act, the Rent Control Act, 1992, and the Rental Housing Protection Act.

We have fought for the implementation of most of the recommendations of the report of the Commission of Inquiry into Unregulated Residential Accommodation, the Lightman commission, and are pleased to see that some of those recommendations do appear to be implemented by Bill 120. I will refer to this report in my presentation.

First, we support the inclusion of residential care units under the Landlord and Tenant Act and the Rent Control Act. We have always seen these units as the home of the resident and we are pleased to see that the legislation recognizes this fact. Residents living in this form of housing will now receive the same protection as those living in other forms of rental accommodation.

Second, we are also pleased to see the narrowing of the types of accommodation that are exempt from the Landlord and Tenant Act. However, we would prefer even fewer exemptions. I give as an example social housing; we don't see why social housing should be exempted.

We should know exactly what is and is not covered by the definition of "care." There is such a wide range of services that provide assistance with the activities of daily living, from hair care to bathing to meal preparation and so on, that we believe that a clearer definition should be provided.

We are very concerned about the exclusion of meals and care services from the meaning of "rent" within the context of the Rent Control Act.

Residents of boarding homes will lose the protection we understand they now have if Bill 120 remains as it is. Residents of boarding homes currently protected by the Rent Control Act pay rent which includes both meals and accommodation. However, Bill 120 will exclude meals and care services from the meaning of rent. One could envision the situation where the meal charges could exceed the rent charges and the resident could be forced to leave his or her home for financial reasons.

Furthermore, we are afraid that owners of boarding homes will try to claim that they are "care homes," and this claim would make them exempt from the Rent Control Act's application to the cost of their meals. If this transition should occur, we will probably lose a very valuable form of moderately priced accommodation, the boarding home.

Retirement homes or care homes not previously covered by the Rent Control Act will now be covered by Bill 120. Such homes commonly provide meals and often some care for the residents. However, Bill 120 will not protect the residents from undue increases in meal or other care costs.

The required 90-day provision of notice of an increase in the charge for care services or meals, while useful, is very limited protection for the resident. Therefore, we urge that meals and mandatory care services be brought under the protection of the Rent Control Act, 1992.

If rent control is not going to be extended to cover meals and mandatory care services at this time, then we urge that a monitoring system be established to review the pricing practices in care homes.

We are pleased to see the requirement to provide an information package to new tenants prior to the signing of a tenancy agreement. We believe that such an information package must be in a prescribed standardized form and include the following: information on tenant rights under the Landlord and Tenant Act; information on tenant rights under the Rent Control Act; a list of mandatory services available, any limitations on their use and the price of each of the mandatory services; a list of optional services available, any limitations on their use and the price of each of the optional services; minimum staffing levels and qualifications of the staff; details of the emergency response system, if any; internal procedures, if any, for dealing with complaints; current charges and those of the previous two years for all services, meals and rent; and, finally, the telephone number and address of the nearest tenant advocacy centre.

These recommendations reflect some of those found in the Lightman commission recommendations and I've listed the numbers. They're not exclusively found there; some of them are our own.

We believe that section 20 of Bill 120 is flawed by excluding care homes with fewer than three residential units from the notice requirements.

There are important items that are missing from this legislation, items that were found in the recommendations of the Lightman commission and that we believe ought to be included.

The protection against conflict of interest, as recommended in the Lightman commission: That refers to people such as lawyers, people covered under the health professions legislation, who would have a conflict of interest with recommending somebody going into the care home, and I have a copy that could give you the details, if you want.

We would call for the establishment of provincial standards for care services and the creation of a provincial services review board.

We would like to see the institution of an accreditation program for all care homes.

We do not believe that these recommendations need be delayed for further consideration under the long-term care policy developments. There are vulnerable tenants who need help now.

We believe there should be a requirement for the



yearly inspection of all care homes, which should include an assessment of the extent to which the building codes and care service standards are being met.

Now I'd like to turn to those aspects of Bill 120 that address the issue of the creation of secondary units as of right.

We believe that these changes will create legal, moderately priced accommodation, a cost-effective way of creating this accommodation as this housing stock is largely already built. Some of those with the greatest need are singles of all ages, the disabled, students, young families and the elderly, particularly women. These groups have proportionately lower incomes and a relatively high incidence of homelessness.

The widespread use of illegal second units has meant that the residents of those units are not protected by the Landlord and Tenant Act and are potentially subject to unfair treatment by their landlord, without any opportunity of recourse to the law. The legalization of such units will ensure that tenants will now have access to the service of tenants' associations without fear of losing their accommodation.

The legalization of second units as of right will help people on limited incomes to purchase homes or keep their homes. The rent received from these units provides a source of needed income. The retired pensioner is one of those most in need of additional income because their incomes are usually fixed.

The creation of second units as of right gives the older home owner an opportunity to have someone share the same house. This will address a number of important concerns.

There are many older, single individuals, particularly women, who become isolated and withdrawn as they age alone. A tenant in their home would be in a good position to note this and could alert family or community agencies.

Older home owners often need help with home maintenance. Having a tenant in a residential unit could lead to a sharing of these responsibilities.

Older home owners often have concerns about personal safety, especially if they are living alone. A tenant would provide an important element of security.

The legislation will provide for safe accommodation because the building codes and all pertinent safety requirements will apply to these units. Hopefully, communities will be able to avoid the tragic loss of lives through fires that have swept through illegal units. Tenants will have the right to ensure that their accommodation is safe without putting themselves at risk of being evicted from their homes. We also recognize that some units will have to be closed as they will not be able to meet the building codes and fire safety standards.

We are pleased to see the provision of strengthened right of entry for building inspectors but we believe the legislation should go even further. We do not see why there is so much protection for the home owner. If they have nothing to hide, why would they worry if an inspection is requested?

We would like to see policies and procedures in place

that would facilitate the eviction of a demonstrably inappropriate tenant. However, such procedures should include safeguards against arbitrary eviction.

We are opposed in principle to the use of exclusionary zoning, such as zoning areas single-family residential, to prohibit the creation of second units. We believe such legislation has been used by municipalities to serve the interests of the middle class to the detriment of those with low to moderate incomes.

We do not accept the argument that the creation of second units as of right will lead to excessive demands for community or municipal services. In some older residential areas the creation of such units may lead to the firming up of the population base that is needed for the efficient provision of some services. We also reject the claim that second units in existing housing will be a threat to the quality of neighbourhood life. There are thousands of such units in single-family-zoned neighbourhoods today, and I lived in one of them.

The history of cities shows that there is continuous change in housing use from single-family to multifamily and back to single-family. These changes have occurred in response to the changing economic times and changing human needs.

#### 1510

We are strongly supportive of the move to facilitate the use of garden suites. We believe that there should be agreements established between the home owner and the municipality as to the use of the suite and, in particular, we believe that the occupancy should be guaranteed for the life or use of a designated occupant.

We support the elimination of the current right of municipalities to pass bylaws that regulate who may or may not share the occupancy of a home. Furthermore, we support Bill 120's intent to prohibit municipalities from using their regulatory powers to circumvent this legislation.

Finally, the legalization of secondary units will bring to light incomes that have never been declared, perhaps an unintended consequence but a move to end at least one element of inequity in the taxation system.

We believe that the outcome of this bill will be more and better housing options for many people in our communities, including seniors. Seniors and others in care will have somewhat greater protection from loss of their accommodation or homes. We've expressed some concerns and made recommendations for some improvements in this legislation. However, we've had to wait far too long and we urge you to give prompt passage to Bill 120. Thank you very much.

**Mr David Johnson:** This is a very extensive analysis of Bill 120. I think it's perhaps one of the most extensive analyses in terms of dealing with all the points that I've seen to this date. You must have a group of people who have gone through Bill 120, do you, or how does that work in your organization?

**Ms Kaegi:** Yes, I have consulted with a number. I should also explain I teach city politics and I teach public policy at the local government level, so I personally know quite a bit about them.

**Mr David Johnson:** So you were largely the author of the report, I assume.

**Ms Kaegi:** Yes, with consultation with other members of the board and other groups, seniors' groups across the municipality.

**Mr David Johnson:** Across the municipality?

**Ms Kaegi:** Yes, across Metro, other groups that exist within Metro.

**Mr David Johnson:** Oh, I'm sorry. I just noted Ontario division, so I presumed you had groups from across Ontario.

**Ms Kaegi:** Oh yes, we do. There are groups, other affiliates, there are other branches, there are branches that report back to us, and we have a newsletter, Viewpoint, which is a quarterly newsletter which goes out raising some of the concerns and issues we're thinking about, getting feedback from the other groups. We've had letters from people asking us to advocate, especially on the second units but also when the Lightman commission was up. We had a lot of interchange with our membership.

**Mr David Johnson:** So you have an executive that is composed of people from units from across Ontario. Is that the way it works?

**Ms Kaegi:** No. The Ontario division board is elected by the membership; those who can go to the annual meeting will elect the members of the board.

**Mr David Johnson:** I see. Okay.

**Ms Kaegi:** But there are branches across the province and in other provinces.

**Mr David Johnson:** Roughly how many people would have been involved in terms of putting this report together?

**Ms Kaegi:** I'm sorry, I don't know.

**Mr David Johnson:** It would depend on how you defined that, I guess.

**Mr Stephen Owens (Scarborough Centre):** What's the point, Dave?

**Mr David Johnson:** I guess we have the floor here, Mr Chairman.

**The Chair:** Yes, through the Chair, Mr Johnson.

**Mr David Johnson:** It's really nice to have the assistance from across the way there, but they're not usually too helpful.

In terms of the first part of the bill, since you do have units across the province I assume that problems pertaining to the care homes are being raised to your various members. You're very insistent and your points are very definite in terms of being under the Rent Control Act, not only the accommodation portion but the food and the care portion. I wonder if you could share with us some of the instances and some of the specific problems of that nature that have been raised with your membership.

**Ms Kaegi:** To go back, those issues were originally raised around the Lightman commission. We were asked on behalf of the membership to make a deputation to the Lightman commission and that is where we developed our analysis of those issues. Therefore, it wasn't very difficult to transpose that brief in fact to Bill 120 when

we went through and reviewed what we had made in our presentation to the Lightman commission.

Some of the instances have been of people who moved into a residence. They had sold their home, they had got rid of their furniture, whatever, to fit the accommodation, and then they discovered that there were rent increases they hadn't expected. There were increases in costs of meals. They discovered that while they had agreed that it might be reasonable to take a certain number of meals in the dining room, when those prices also escalated, they found they couldn't afford it.

I think one of the most notorious examples was the Grenadier in Toronto; and I can't remember the name of the place but I'm sure—I can remember one of the instances. There is a place in Windsor, I think it is, where they've had a similar problem. But we've heard in the past from people that this is not an uncommon concern for residents who have moved from their family home into a rest or retirement home and then suddenly feel themselves very, very vulnerable.

**Mr David Johnson:** It's a difficult thing to balance.

**Ms Kaegi:** Extremely.

**Mr David Johnson:** Your advice is certainly helpful to us. On the other hand, we're hearing, through the course of the three weeks or so, from some of the operators who say that the meal situation is one that varies from individual to individual, and the care as well. Not only does it vary from individual to individual, but over a period of time one person may have different meal requirements and different care requirements. To put that under the Rent Control Act, they're just not sure how that would work. I wonder if you could give us some advice, given changing and varying circumstances, on how you would see it being governed.

**Ms Kaegi:** Quite frankly, one step—if you like, an interim step—would be the recommendation on page 2, as an interim step. Establish a price-monitoring system and then if in fact you discover that our concerns are valid, you could move into the legislation.

Second, when you go into a home, you could have a contract and you could stipulate that under certain terms and conditions you would then go back and renegotiate. If your care needs went up and the home is prepared to provide it, then you could renegotiate the contract.

What is important, though, is that with the application of the Landlord and Tenant Act, if the service is not a mandatory service, is not one you have to take with the package in living in the home, and the price of that service in the home goes beyond your financial means, you hopefully would be able to access that service in the community. So you would have some flexibility in terms of meeting your needs.

Again, I think experience will show us if in fact we need to have it. Some of us believe we do; others believe we don't. As an interim step, certainly a monitoring committee of what is in fact happening would be helpful.

**Mr Gordon Mills (Durham East):** Thank you very much for your presentation. I enjoyed it and was glad to listen to your wholehearted support for Bill 120. It's very encouraging after all the down stuff we've heard during



this hearing. I just want to ask you about paragraph 7 of your presentation. What I'm talking about here is that I've met with municipalities in my riding and the concern they seem to have is they want to make the garden suite conditional on a member of the immediate family, like a blood relative, and then they also want to have in that arrangement some sort of condition that will automatically make the garden suite be removed upon the death of that person.

You're suggesting here that "the occupancy should be guaranteed for the life" of the person—I can go along with that—"or use of a designated occupant." Are you suggesting that someone other than a relative should be able to live in a garden suite?

**Ms Kaegi:** No. Quite frankly, we were saying "or use of a designated occupant" rather than the life because someone might have to go into a care facility, and then it seemed to us that if the use was no longer there for that designated person, that should be the end of the existence of the garden suite. We have not taken a position on the issue of whether it should or should not be restricted to a relative. Quite frankly, we had made the assumption it would be.

1520

**Mr Mills:** I see.

**Ms Kaegi:** I hadn't thought of the other.

**Mr Mills:** In the society we live in today there are some older folks who get very friendly with a family that's not their own and then that family may be inclined to offer this sort of care. They would be prohibited because in fact that wasn't their relative per se.

I just wanted to ask you another question. I've been told, and maybe you've got it from your group, that municipalities will say: "We haven't got the time to mess around with this. It's up to them." I've been suggesting to the Minister of Housing that it would be helpful perhaps if we had some blanket guidelines or information that a municipality would be able to use in the case of an apartment in their garden suite so that they wouldn't be able to use the excuse that, "The administrative costs...blah, blah, blah." We could say to them, "Here's the type of model agreement that you will use. It's all laid out for you," to facilitate and to stop that argument. Would you subscribe to something like that, to make it easy, or how would you feel?

**Ms Kaegi:** Goodness. I have no problem with the province establishing, if you like, guidelines. I'm also, if I could put on another hat, very jealous of the jurisdiction of municipalities to act within their own areas. At the same time, I think it would facilitate to have standards, just as one has building code standards or fire safety standards. I see no problem with that. If it facilitates the establishment of garden suites—and I'm aware of the pilot projects that have existed, all to the good—I have no problem with having a general model for it, no.

**Mr Mills:** Just because there is this fear that they're going to say, "We haven't got the time to do this," and that's why I'm looking for support for that idea, that we present them with the model agreement that they could follow without having an excuse to say, "We haven't got

the time." That's all. Thank you very much.

**Mr Gary Wilson:** Thank you, Ms Kaegi, for your presentation. It of course is filled with a lot of ideas and suggestions about how we, in your view at least, can strengthen the legislation. I realize that you've spent a lot of time considering the provisions under both aspects of Bill 120.

I want to just mention, though, that you seem to be calling for monitoring of the care charges and food charges. That will be done by the ministry just to make sure that there aren't any kind of untoward increases in the cost of care or food. There is a provision in the bill that allows rent control to apply to the cost of care and food if it's seen that there is a problem there. As you know, there is the provision to provide for 90 days' notice of the increase.

**Ms Kaegi:** Yes, I was certainly aware and we were certainly aware of that provision. Our concern is that things can happen fairly quickly and it's very hard to monitor. What sort of system will you set up to ensure you get all the information? Our preference would be to put in the regulation. If necessary, it could be modified. But our fallback position is at least to have a clear and effective monitoring system and require reporting of all these charges. But it's going to be an extensive data bank you're going to have to set up.

**Mr Gary Wilson:** In a way, although very much this legislation is based on the rights-based approach, that is, it's up to the resident under the acts that we're now applying to care homes and apartments in houses to come forward with complaints that they have. I am just wondering whether you think this will work in the areas that you are interested in, where elderly people are living in this kind of accommodation.

**Ms Kaegi:** I think a monitoring system can work if people are determined to make it work. As I said, our preference would be to have the regulations.

**Mr Gary Wilson:** But do you think there are enough advocates? Are you confident the elderly themselves can come forward with the kind of—

**Ms Kaegi:** No. I would argue that, yes, some can quite effectively argue and present issues. Others are intimidated. Others will be afraid, "If I cause trouble, I could lose something." It varies. Seniors are just as varied as everybody else in society, so there are some of those who wouldn't appear before this committee and others who would. I think we have to make provision for those who don't feel they are secure in making a complaint or raising a concern. They will be frightened.

**Mr Hans Daigeler (Nepean):** Could you just tell me a little bit about your own organization, like how many members do you have and who are the members?

**Ms Kaegi:** I'm sorry, I'm not the person in charge of the membership, but there are quite a few hundred in the province of Ontario, if I'm just dealing with the Ontario division. The national office is in Halifax, but in Ontario there's a very large group in Samia and groups of different chapters, different organizations, affiliations of our group in Metropolitan Toronto and then individuals and groups and affiliates outside. We are also linked to



other seniors' umbrella organizations.

Who are they? Goodness. I could just take the ones I have met, because I haven't met them all: people who had been professionals, people who have not; people who have worked in a variety of jobs, people who have not worked outside of their home.

**Mr Daigeler:** How does one join the group?

**Ms Kaegi:** It's open to anyone who wishes to belong. The membership is extremely modest, and anyone who wishes to join may join. As part of the membership, you get the quarterly publication that we publish, Viewpoint. It's very inexpensive, it's very small, but it raises issues we think should be of concern and are of concern to seniors not only in Ontario but across Canada, such as the clawback, housing issues, taxation policy, NAFTA, whatever. We raise a range of issues, because our organization has by tradition always been interested in the very broad spectrum of public policy.

**Mr Daigeler:** Correct me if I am wrong. Did I hear you say, in response to the question I think from Mr Mills, that you are quite jealous of the municipalities' right to act in their own field of jurisdiction?

**Ms Kaegi:** If I remember correctly, I said I was torn between two hats. I did mention that therefore, when it appeared as though the suggested guideline might be that this is the way one has to draw up this agreement, I said I would like to have the guideline. I see that could be helpful to the municipality, but I wasn't going to go—and I'm looking at Mr Johnson, if I might—all the way and say, "This is cast in stone." That's all I was doing, but I understand the—

**Mr Daigeler:** I think I'll have to take a look at the Hansard, because I think I heard you be a lot more direct on the rights of the municipalities.

**Ms Kaegi:** On a particular issue.

**Mr Daigeler:** Just with regard to this particular issue.

**Ms Kaegi:** Fine.

**Mr Daigeler:** Obviously what my question was going to be was as to where you would see the harmony between that position and your obvious interest in overriding the jurisdiction of the municipalities on Bill 120.

**Ms Kaegi:** Quite frankly, I've seen the abuse of municipalities that have excluded housing that is affordable. I lived in a neighbourhood that was zoned single-family residential where there were illegal apartments, not in the basements necessarily; one near us was on the top floor.

It was perfectly acceptable to everybody in the community. Everybody knew about it. We had no problem with it. We knew it was in violation of the zoning, but we also knew it was an older member of the family who needed accommodation. We couldn't understand the logic of the municipality saying, "This area is exclusively single-family residential."

I could look near to where I live, Forest Hill Village, which at one time was filled with rooming houses, then went back to the zoning of single-family residential. Use of housing and needs in housing change. Furthermore, the

legislation that prohibited people who were not related to each other from sharing accommodation was madness. Students, older people, single people, needed to share accommodation.

1530

In my view, and I'm speaking personally here but it's reflected in the discussion we've had on our board in the past and which comes out in our presentation, this kind of regulation really denies people the flexibility to make appropriate decisions about accommodation. As long as it is not harmful in terms of the housing and it doesn't violate safety and building code standards, why be too picky?

**Mr Grandmaitre:** Can I take you back to page 5 and your fifth recommendation, if I can call it a recommendation: "We are pleased to see the provision of strengthened 'right of entry' for building inspectors...but we believe the legislation should go even farther." Most municipalities would agree with you that they need this power. How far would you go?

**Ms Kaegi:** Could I put on a different hat? I've been president of a neighbourhood association, and one of the difficulties for us was to get a building inspector into a home where we believed it was unsafe. They had to get accommodation agreement from the property owner and they never seemed to find a convenient time, and we felt this was a risk to the people who were living in that accommodation.

**Mr Grandmaitre:** And they need a search warrant as well.

**Ms Kaegi:** Oh, yes. It seemed to us that if you have nothing to hide and there is a request by the building inspector to come and see, then why should you be so protective of the home owner? "Fine, come in, inspect my house. If it's fine, why should I worry?" Quite frankly, I don't see the problem with strengthening the opportunity for building inspectors to go in.

**The Chair:** Thank you very much for coming today. We appreciated your views.

#### REXDALE COMMUNITY LEGAL CLINIC

**Ms Jay Sengupta:** My name is Jay Sengupta. I'm a staff solicitor at Rexdale Community Legal Clinic. With me is Rose Brunetta, community legal worker and intake worker at the clinic. We're here as representatives of the Rexdale Community Legal Clinic.

Our organization provides free legal assistance to low-income clientele living in our community. Also part of our mandate is the provision of public legal education and information to local groups as they request it. We're funded by the Ontario legal aid plan and administered by a local board of directors, who are elected annually from and by our membership.

We provide legal assistance and advice regarding housing problems and tenants' rights, immigration and refugee law, social assistance and income maintenance programs. If and when we're unable to assist people who approach our clinic, we also provide referral advice and information to them. We've been providing legal assistance to our community since approximately 1971.

We would like to begin by commending the govern-



ment for taking this first step towards extending legislative coverage to groups of tenants who have until now been largely unprotected. We believe this legislation will be helpful in regulating facilities which provide care as well as in creating and regulating more affordable rental accommodation.

As our experience as providers of legal services has not usually extended to assisting tenants of care homes, we will limit our discussion of that portion of Bill 120 to a very few observations. The main purpose of our attendance today is to comment on the apartments-in-houses portion of Bill 120.

With respect to care homes, we support the intent of the bill with respect to the rights of tenants of care homes. However, there are some aspects of the amendments we would like to see changed or modified. The definition of "care services," namely, "services that provide assistance with the activities of daily living," we feel is too broad and should be narrowed.

The exclusion of care home meals from regulation under the Rent Control Act is problematic for us, as we feel there is potential for unreasonable increases in charges for meals. We submit that meals should be included in the definition of rights and that tenants should thereby be protected against unreasonable increases.

There is no indication as to how rents will be apportioned as between several tenants within a particular unit. There is no remedy in cases where a tenant might believe there has been an unfair or coercive division of the costs. We submit that the legislation should be clear on the former point and provide a method of seeking a remedy with respect to the latter.

Protection for tenants in the area of services is a necessity which does not seem to be addressed adequately in this bill. We hope the need for regulation is recognized and the omission rectified.

Those are our comments with respect to the care home portion of the bill. We'd like to move on to the primary reason for our attending here, the apartments-in-houses portion.

We believe the extension of the legislative protection to tenants of apartments in houses is long overdue. One has only to open up the rental section of a newspaper to realize that such units exist and are being rented. That they will now be regulated is a positive step, in our view. We hope also that the amendments in the bill will encourage the development of new affordable rental accommodations.

We wish to point out that tenants will not be the sole beneficiaries of the changes to the Planning Act and Municipal Act contemplated in Bill 120. Both existing and potential home owners who rely on the income from a rental unit can now operate within the law. This would include seniors who are home owners and who wish to remain in their community but whose incomes may have dropped. First-time home owners may also be able to buy because of these changes.

Improvements to houses in creating these apartments in houses will probably result in higher assessments of the property value and, as a result, higher taxes, so the

municipalities I believe can benefit as well.

We applaud the fact that the need for more affordable rental accommodation is being acknowledged in this bill, as is the need for tenants to have more choices in terms of types of neighbourhoods and areas to live in.

Finally and most important, we are encouraged by the contents of Bill 120 because tenants of formerly illegal units now have a remedy available to them if their accommodations do not meet basic health and safety standards. In addition, both landlords and tenants will have recourse to the Landlord and Tenant Act in order to settle disputes.

While our organization supports the general intent of this bill, there are a couple of concerns which we would like to see addressed before it becomes law.

First, we support allowing more than one rental unit in a home or a house if health and safety standards can be met. Some homes may be large enough, we believe, to safely accommodate more than one unit. The deciding criteria in our view should be safety and minimum floor space requirements per unit.

The second point we have with respect to this portion of the bill: There is no requirement to register the rent charged in apartments in houses with the rent registry. There is no way that a tenant can ascertain the amount of rent previously charged for a unit and whether the rent he or she is currently paying includes an increase that is larger than that allowed by the Rent Control Act. We feel there is potential for abuse and, if at all possible, we would like to see a requirement that the rents be registered with the registry.

Third, we hope that the province will play a role in monitoring the municipal enforcement of standards with respect to these amendments in order to ensure that the goals of the legislation are being pursued and met.

The fourth point we would like to make is that there should be requirements that all municipalities require damp-proofing of basements to be used as rental accommodation.

Our next point is a recommendation that an advisory service be established for landlords which would assist them in planning and educate them with respect to their new rights and responsibilities as landlords. We understand that such advisory services have existed in the past and may still exist in some municipalities such as Toronto, Ottawa, North Bay, London and Windsor.

We also feel that a public education campaign will be necessary for tenants should this bill become law.

Our next point is another recommendation, that the province offer financial assistance in the form of low-interest or interest-free loans to assist in the development of new apartments in houses similar to the financial assistance provided by the Ministry of Housing under the add-a-unit and convert-a-unit programs of the 1980s.

Finally, we believe that Bill 120 should include a further provision which ensures that the provincial government will play a role in ensuring that these amended standards are enforced by municipalities similar to the role of the investigative branch under the RHPA.

That ends our presentation. We wish to thank you for the opportunity to appear before you.

1540

**Mr Fletcher:** We've heard from a lot of groups that once you allow tenants into a neighbourhood, there goes the neighbourhood, the tenants are going to be disruptive and the neighbourhood is going to be run down because of everything. Is this your opinion?

**Ms Rose Brunetta:** The funny part is that these apartments are already in existence, so where do we see that this is happening?

**Mr Fletcher:** There were some presentations, such as Hamilton or London, where they said it was run down, and some places where they said they had a problem with the tenants who were unruly. Is that widespread? Tenants are bad for the neighbourhood?

**Ms Brunetta:** I don't think so. Tenants are everywhere. We have tenants in buildings, we have tenants in basement apartments all over the city. You may even have a neighbour who lives in a basement apartment. He may be just fine. That is a wrong conception, absolutely.

**Mr Fletcher:** Yes, I think that's false too. I think so. I think that's a bad perception to have.

Another thing they talk about is the cost of renovations. They're throwing around figures of \$3,000, \$4,000 or something. Do you have any indication that it's going to be a high cost? If a person wants to put an apartment in their house, I guess they're willing to pay the cost of putting in a good apartment. That's the way I look at it. I don't know. Do you see people saying, "No, we don't want to put apartments in because it costs too much"?

**Ms Sengupta:** I would think that people would see a benefit from the initial investment and I think that would be the reason for them doing it.

**Mr Fletcher:** Yes, if you put a little money out, you may make—

**Ms Sengupta:** You may be able to get a lot out. That would be my understanding of how the mind of a typical landlord works.

**Mr Fletcher:** I think so. That's the way I look at it too. I'm trying to figure out where they're coming from.

**Ms Sengupta:** I'm a tenant.

**Ms Brunetta:** Increase of property value, of course, in the future.

**Mr Fletcher:** Yes, I think so too. Thanks a lot for your answers.

**Mr Mammoliti:** Welcome. I know where your office is; it's actually a stone's throw away from my riding. I know that it's very reflective, your community and the community that you represent, of our community in Yorkview and that ethnicity plays a large role in both communities and the population of different cultures is very high.

I wish for you to make a couple of comments, if possible, about what this bill will do for the ethnic community and why it's important for some communities to live with their own or even very close to their friends and relatives. Would you be able to comment on that for me?

**Ms Brunetta:** Certainly that is a very good point. I mean, they would be able to live within their own community. But on the other hand, I think that basement apartments would benefit everybody, single parents, you know. I mean, the rents certainly have been shown to be much cheaper than elsewhere. Anybody who cannot afford a higher amount will benefit from it, yes.

**Mr Mammoliti:** That was my next question in terms of single parents and what this bill can do in the future, perhaps a long-term type of an approach, but what it will do for our children, the children of those single parents and those who choose to live in a basement apartment or an accessory apartment of some kind. In my opinion, it's much better than apartment living, the apartment living that we're accustomed to anyway in Rexdale and North York. Perhaps you can elaborate on the comment you had made earlier for those single parents.

**Ms Brunetta:** Yes, single parents living on family or limited income—we know very well that wages have decreased and a person who used to make a reasonable amount of money in wages is not any more and therefore could only afford a smaller place that has a basement apartment, because buildings as well tend to request a certain level of income in order to qualify. Relationship as well—if this bill were to be passed, it would certainly benefit these tenants, because both the landlord and the tenant will be protected under the Landlord and Tenant Act.

It boils down to this point basically: These apartments have been there for a long time. They will continue to be there because families need an extra income and there are families that need to pay a lesser amount in rent. Therefore, why not legalize these apartments and protect both the landlord and the tenant?

**Mr Mammoliti:** I will yield to my colleague.

**Mr Gary Wilson:** I would like to just ask, since you're from a legal clinic, about the issue of eviction. It has come up quite a bit in the other part of the bill having to do with care homes and there's a call for what's being termed a fast-track eviction. Have you any comments you want to make about that?

**Ms Sengupta:** We believe with respect to the care home facilities—we don't have a lot of expertise, but as a matter of principle we don't see that it benefits the residents to be treated in any special way. There's been some discussion in the clinic community as to whether or not special rights should be requested for tenants in care homes. I think the consensus is that they don't want special treatment; they don't want special notice provisions; they don't want special eviction procedures; they want to be treated like tenants. I think that's the whole point.

**Mr Daigeler:** First of all, I do have to take strong exception to what Mr Fletcher said earlier, that either the opposition or people who came before the committee who were against this particular bill were taking an attitude as though, "Here goes the neighbourhood." Very clearly, everybody who came before the committee representing the municipalities and others who were opposed to this particular provision stated that they were in favour of housing intensification. Very clearly, if you go over the



record, that is what was said. What they did object to is that here, if you can't get it done at the local level, where people are voted in, you bring in Big Brother from Toronto and he will do it for you. That's what they were objecting to. They said many of our municipalities have started the planning and in fact there were several municipalities that appeared before the committee that had put forward housing intensification plans and they were being held up by the ministry.

I think it's quite clear—and I appreciate your position that you agree that the provincial governments should override the rights and responsibilities of the municipal government. That's a position all the legal clinics have taken. I just think it's a very dangerous approach because, in this case, you may agree with the position the government has taken, but there may be many other cases where all of a sudden you do not agree with the position of the provincial government and you'd be glad if there were another level of government that could perhaps limit or reduce the powers of one level of government.

What concerns me most about this is the precedent that is being set by simply eliminating the powers of what we have considered traditionally a government that's closest to the people. Can you comment on that?

**Ms Sengupta:** Certainly. From my understanding of studies done before this bill was implemented, a large number of municipalities and surveys done of people living in municipalities indicated that there was local support for apartments in houses.

It's my feeling also—and you do make a good point about not liking certain policies of a particular government and wishing there was another level. I think there is some recourse available to people who find that their interests are not being represented, the next time an election comes around.

But the point I'm trying to make is that my understanding is that it was left up to the municipalities to go in a certain direction, to go towards legalizing and facilitating the creation of apartments in houses and that there has not been sufficient action taken on it. We're in support of the direction this government is taking on this issue. I don't know if that answers your question.

1550

**Mr Daigeler:** Yes, I understand and I appreciate that. That's certainly your right and all the other community legal clinics, at least in this area, have taken that position.

In your practice as a community legal clinic, would you have any idea how many cases you had to deal with that were relating to people who were living in illegal apartments? Is this an active workload or not so active?

**Ms Brunetta:** We receive two or three calls daily from tenants who live in illegal basement apartments.

**Mr Daigeler:** And what would be the questions?

**Ms Brunetta:** The questions would be: "My landlord comes into my apartment at any time. What can I do to stop him?" "He's abusive" or "She's abusive." "He has increased my rent again" or "He's told me that if I want my brother to come in and live with me, he's going to charge me \$50 extra." "My place is awful. My bathroom isn't working." He can't call the inspector, obviously,

otherwise. "My kitchen sink isn't working," things of that nature, or "He's told me to be out or he's going to lock me out." There have been cases where things have been thrown out in the front yard. Really, police cannot do anything. These people are just victims of circumstances beyond their control.

**Mr Grandmaître:** We were talking about the right of entry with the previous presenter. Would you favour a stronger municipal right to enter premises to inspect these unsafe or illegal apartments?

**Ms Sengupta:** At the request of the tenant?

**Mr Grandmaître:** Yes, to give municipalities more power, the right of entry to inspect these illegal apartments. Would you favour this?

**Ms Sengupta:** Now legalized?

**Mr Grandmaître:** No, I'm talking about unsafe and illegal apartments that municipalities don't have the right, except with a search warrant, to inspect. Do you favour stronger legislation, more municipal powers to enter these apartments?

**Ms Sengupta:** At the request of a tenant, certainly.

**Mr Grandmaître:** You do.

**Ms Sengupta:** With proper notice, yes.

**Mr David Johnson:** I'll give you another shot at that one. Thank you for your deputation. I think what's being asked is no, not at the request of the tenant.

**Ms Sengupta:** Not at the request of the tenant.

**Mr David Johnson:** No, because what municipalities are saying—and in your presentation you said that the province should make sure that municipalities enforce the bylaws and make sure these places are safe. I forget the exact words you used, but you gave the impression that you wanted the province to make sure that municipalities made sure the apartments were safe. The municipalities are saying they can't do that because they can't get in. If they knock at the door, unless somebody lets them in—and quite often, both the landlord and the tenant, for whatever reason, will refuse entry.

There are some people who say, "When this legislation comes in, all the tenants will be phoning up and asking for the municipalities to come in and inspect." But there are many others who think that won't happen and there will still be many cases where the local municipality will go to the door, will want to get in and inspect to make sure everything is okay and will be denied entry. Even after Bill 120 is put into place that will continue to happen.

The municipalities are saying, "If you want to make sure that we can ensure that all of these apartments are safe, then we need better powers of entry." That's exactly what the previous deputant from the Canadian Pensioners Concerned said as well, that the municipalities, without being asked in, have power to go in and inspect.

**Ms Sengupta:** I think I made it clear: At the request of a tenant who calls up a municipal inspector the tenant would be there to let him in. That was my understanding. I think I asked the question twice. At the request of the tenant, certainly.

**Mr David Johnson:** I understand that. But then the

question is, how can municipalities ensure the safety if they're not permitted in to see what the problems are?

**Ms Sengupta:** As far as I can see, the bill allows—

**Mr David Johnson:** No, it doesn't.

**Ms Sengupta:** —with a warrant being issued.

**Mr David Johnson:** With a warrant, that's right. With a warrant it allows them to go, but they have to show "reasonable grounds" to get the warrant. The experience has been that it's almost impossible, and you can talk to staff at any municipality, to get that warrant to get in. Municipalities can't get the warrant, they can't get in, so how can they ensure that the apartments are safe?

**Ms Sengupta:** I would think it would be in a tenant's best interests to see that an inspector comes if standards are so unsafe or if standards are not being met. It would be in the tenant's best interests.

**Mr David Johnson:** Unfortunately, it doesn't happen way. I've been there and I've seen it. Many tenants deny entry. I guess there's some magical belief that if they are legal in a sense—they say the problem is that there's still a fear, I would guess, that you can't make this unit legal. Well, you can make it, but it would be quite expensive to do it. There may be another entrance that will be required. There will be a lot of drywalling, a lot of expensive work that will have to happen. We could be talking about thousands of dollars to comply.

We're talking landlords here but in actual fact it's really a home owner and it could be a home owner with very few resources. They may be senior citizens and they may have no money and they may say, "I can't afford to do this," so they'll close down the unit. That's one reason why a tenant may choose not to let the inspector in.

Another reason could be that they don't understand all this, particularly if their English isn't sufficient. They may just be so concerned about letting in the authorities that they may deny that happening. There are many reasons and it happens today and I'm sure it will happen in the future. That's the problem we've got. Unless the municipalities have more power to get in, they cannot ensure that the standards will be met.

**Ms Sengupta:** I think the reason that in the past the municipality has not been called in is, as I heard mentioned, because of the fact that there is a danger of eviction because the apartments were not legal units.

I think that if this bill is passed and if there are, as we hope, newer units with better housing standards coming on to the market, if tenants have some options I can't see why they would choose to live with exposed wiring or in unsafe conditions. If there are other options, and we're hoping that's what this bill will provide, they will come forward and will approach the municipalities themselves.

**Mr Tilson:** I guess the fear is the sudden increase, that maybe with the existing illegal apartments that will now be made legal as a result of this legislation the concern of many landlords is the sudden requirement. It may not be up to proper standards, but all of sudden they're going to be forced to put substantial amounts of funds immediately into improving these units.

The question is whether or not the money is there to

do it if the tenant objects. Have you had any concerns about that, that if a landlord was faced with that dilemma, he may simply close the place down because he can't afford to meet those standards?

**Ms Brunetta:** I'd say that because of the legislation the home owners who will be renting the basements will make sure—as you said, future units will provide appropriate standards.

1600

**Mr Tilson:** I understand that someone consciously goes in to renovate a basement for the purposes of creating new units. I'm concerned about the thousands of units across this province that are illegal for various reasons that now, because of the rights of tenants, perhaps quite rightfully, to improve the quality of those units, the fear has been expressed that the landlords simply won't have the capital available and will simply shut them down.

**Ms Sengupta:** The Landlord and Tenant Act would cover these tenants and if such a thing did happen with a few units they would have adequate time to make other arrangements. I don't believe the landlord any longer has the option of just shutting the place down. I think they would have to give proper notice.

**Mr Tilson:** Oh, of course they give proper notice and they shut the place down. That's the problem.

You represent the Rexdale area; at least from your name I assume you do. One of the issues under this government has been, whether it be through rent control or non-profit housing legislation that has mushroomed throughout since its mandate commenced, the assumption that housing problems, the unavailability of housing problems, the inadequate quality of housing, is the same across this province. I personally don't quite accept that, having seen many areas where it may be and other areas where it may not be.

Do you have available anything from your municipality or other private source, other than newspaper advertisements, that tells you what the availability or the unavailability of housing in your community is? Has your municipality undertaken any independent studies as to the availability of housing in your community?

**Ms Sengupta:** Not that we're aware of. There is a housing registry run by a community organization that keeps track of housing units that become available that tries to match landlords and tenants. But no, I'm not aware of the municipality's studies.

**The Chair:** Thank you for appearing today.

FIONA STEWART

**The Chair:** Next is Fiona Stewart. Good afternoon. You have 15 minutes for your presentation.

**Ms Fiona Stewart:** I appreciate being able to deputate before you today. I'm deputating as an individual. It goes without saying that I am fully in support of apartments in houses. However, I am not here to address that issue today. I am here to discuss the other side of the bill, care facilities.

To tell you a little bit about myself, I have been involved in housing issues for about 10 years. I have



been a manager of a care facility, a housing advocate and a board member of various non-profit housing projects, so I've played both sides of this issue.

Unlike most people who represent management of care facilities, I no longer manage a care facility. It was a care facility that was targeted to the needs primarily of people living with HIV or AIDS. It was exempted from the Landlord and Tenant Act, and I want to share with you today a story of why fast-tracking evictions should not be considered and of why people should not be removed temporarily from their homes. Let's face it, we're talking about homes even in care facilities. People come to these places, and in this instance most people came to this facility knowing they would probably die there.

I have a story of an individual. I was hired originally as a consultant to do management for the project. I left Toronto for a period of time and I got an urgent phone call after leaving Toronto that one of our residents was being evicted. Of course, he was not protected under the provisions of the Landlord and Tenant Act. This individual was very ill. He was about 22 years old at the time. He was being evicted for what was deemed inappropriate and anti-social behaviour. Fortunately, a public health nurse who helped this individual take care of his physical needs looked into it and he was represented by legal counsel through the HIV lawyer at the Advocacy Resource Centre for the Handicapped, otherwise he would have been evicted.

I wish members of this committee had asked some of the housing providers what they deemed alternative appropriate accommodation in terms of eviction. I have sat through these hearings and heard housing providers say, "Of course we would make sure that there would be alternative accommodation for the individual." This housing provider also made sure that there was alternative accommodation for this individual; the alternative accommodation was Seaton House. For anyone who is not aware of what Seaton House is, it is the largest men's hostel in Ontario.

I came back to manage the residence again, this time not doing it on a consulting basis but on a staff basis, making it very clear to the board of directors that I did not believe in exemptions from the Landlord and Tenant Act and that it was my expectation that we would work together to change, that we would start to conform and to give people their basic human rights. Sad to say, three days before I started in the position this man died. It was three days before his 23rd birthday. What management put him through was a disgrace. I tell you this story because I never want to have to bear witness to something like this again.

I think this issue is about power, profit and poverty on the side of those who are in it for money, for the profit side of long-term care facilities. I'm not saying that every long-term care facility is a bad place but, face it, we're talking about money here. For the private, non-profits, I know, having worked in the sector—and fellow co-workers, colleagues, we've discussed this for many years—it's about keeping power and not allowing the tenants even basic knowledge.

I remember several years ago attending the Ontario

Non-Profit Housing Association conference and being quite shocked when a manager—and this is not a special-needs sort of situation—said he knew it was legal to have available a copy of the Landlord and Tenant Act for the tenants to see, but he didn't want them to know what their rights were because that would make his job more difficult.

We have to be willing as managers to give up some of that power. People have a right to have tenants' associations, they have a right to say what their housing needs are. A home is a home. In terms of their not knowing what their rights are, a right unknown is not a right.

I'd like to speak very briefly about Massey Centre and its request for exemption. I would strongly ask the members not to consider giving anyone an exemption. You simply open the door. Compelling cases can be made for almost everyone about why we're special and why we need the exemption.

What I found rather stunning—and it was actually the members of the Conservative Party and the Liberal Party who made me aware of situations where people in coalitions didn't always agree—Young Mothers' Resource Group deputed to this committee last week, and to summarize—I can't remember their precise words—said they were delighted that Lightman's report was not being shelved. Massey Centre, if you turn to its brief, is on the steering committee. They can't oppose that strongly because they're a member of the coalition. I happen to have worked for that coalition years ago and I knew that when people were really opposed they left the coalition.

I have a lot more to say, but given that I only have 15 minutes, I'll leave five for questions. Thank you.

**The Acting Chair (Mr Frank Miclash):** Thank you very much for your presentation. Mr Mammoliti, please.

**Mr Mammoliti:** When it comes to an AIDS patient and somebody's in a long-term care type of a situation, I would tend to agree with you. But if there's one thing that these hearings have done for me it's convince me, and I'm going to disagree with you here for a second, that there needs to be an exemption for rehabilitation centres. In particular, I'm going to advocate for those in drug rehabilitation clinics.

I think that we definitely need to look at some sort of an exemption or something along that line. I'd like your comment as to why a place like that shouldn't get an exemption. You said yourself you've been here from day one. I'd like to know why you think that these places shouldn't be exempt.

**1610**

**Ms Stewart:** Actually, I can answer that question. Because if we used them, the systems are in place. For instance, if someone is committing an illegal act, that is, in a drug rehab centre doing drugs, I know for some reason people seemed appalled at the thought of calling the police. But that is a criminal matter that must be dealt with through the judicial system; it is not a landlord and tenant matter.

There is the Mental Health Act. If someone is so out of control that they are either a threat to themselves or to

others, then they can be form 1-ed for a psychiatric evaluation. The last one doesn't really cover too much with the drug rehab, but we also have the office of the official guardian, which can declare someone incompetent. So I think that if you use the existing resources, it's a matter of linking the resources.

**Mr Mammoliti:** Okay, I understand those arguments. However, my argument is, what about the rehabilitation for everybody else who's in that facility? Yes, you can rely on some of these other measures, but what does that do to every other person who's looking to get rehabilitated? I'm not sure if you've ever been in one of these facilities, but it's absolutely crucial that they feel like a family and that they're there as a team, getting rehabilitated together. If there's one individual who might stray or might look at getting high, that sort of thing, it ruins any chances for anybody else to be rehabilitated.

**Ms Stewart:** My experience with it, as in some of the HIV houses, technically they're dry houses, where even the use of alcohol is forbidden. You can legislate that, but I can tell you the reality is that unless you're willing to do urine tests every day or blood tests—

**Mr Mammoliti:** A lot of them do.

**Ms Stewart:** —it's going to still keep happening.

**Mr Mammoliti:** But under your objection, these individuals who are doing blood tests and urine samples and who are found to be using a substance may not get evicted right away and might jeopardize the rehabilitation or the possible rehabilitation of literally hundreds of others who might be in that facility. That's the problem that it causes among them.

**Ms Stewart:** I'm getting to the point where I really can't speak to your questions, because they're starting to get a bit too medical for me.

**Mr Mammoliti:** Okay. Thank you.

**Mr Owens:** I'll yield to the parliamentary assistant.

**Mr Gary Wilson:** What is this? There's some confusion. Okay, sorry, the question that I have—

**The Chair:** Oh, I'm sorry. Mr Tilson.

**Mr Tilson:** You've made some comments about existing health legislation to protect individuals, and I appreciate that. This is the first day I've sat on this particular committee, but I have followed the hearings and I have read some of the depositions that have been put forward.

One of the difficulties that I have personally is that we're looking at all of these things, whether it be alcohol, drugs, medical, HIV, medical problems, and what I don't understand is, why in the world is the Ministry of Housing getting involved in health issues?

The concern I have is that, all right, I can understand regulating tenure, which is what I think originally we thought the legislation was going to be doing, yet we're getting into health issues. Through the back door we're getting into health issues, yet we're not regulating standards of care for all of the other things that Mr Mammoliti raised and which other members of this committee raised and which people who have come to this committee have raised.

**Ms Stewart:** Actually, specifically what I want to say in this case is that the services were completely delinked. The Ministry of Housing did provide funding for this project, but it has been government policy for quite some time to delink services. Housing is delinked from the nursing services that were used. We were a housing provider. We had a community worker. We were basically a landlord. All other services came from other community agencies: nursing agencies, home support agencies. It is still my belief it was these people's home.

**Mr Tilson:** Listen, I understand that. I have a mother who moved from a home to a retirement home and is now in a nursing home. I can tell you, one of the previous delegations wanted to know exactly what the definition of "care" was. That's an excellent question.

Again, we're talking about housing matters, and I can tell you, there's a very fine line between people in retirement homes, who normally are there because they can't live in their own homes, and nursing homes. I know we can see extremes, but I've observed that. For the life of me, I don't know why the Ministry of Housing is getting involved in residential homes for seniors. It just baffles me.

I'd like to get to the area of—have I got time?

**The Chair:** No. Thank you, Ms Stewart.

I would just bring to the attention to members that the clerk is distributing to you a summary report on the portable living units for seniors demonstration project that the ministry has kindly provided for us.

ANIS KHAN

**The Chair:** The next presentation is from Anis Khan.

Good afternoon, Mr Khan. The committee has allocated 15 minutes for your presentation. You should introduce yourself and then begin.

**Mr Anis Khan:** All right, thank you. Mr Chairman and members of Parliament, ladies and gentlemen, my name is Anis Khan. I am a small owner-occupier landlord in a condominium. I'm going to cover the part of Bill 90 legalizing second units in Scarborough.

Right from the start, I'd like to say approximately two thirds of over one million rental housing units in Ontario are located in high-rise or low-rise, walk-up, multiple-unit apartment buildings. The conservation of the apartment rental stock has never been as serious an issue in the past because of the relative newness of the stock.

However, as those buildings age—many are already 20 years old—serious attention will have to be given to the efforts that will be required to maintain those units in a safe and livable condition and within the economy of a large majority of the population. Older-type oversized condos are no exception. The maintenance is often higher than the mortgage itself. Often it costs millions in extra assessment from time to time.

Can bylaws drawn under the Condominium Act prohibit what Bill 90 proposes to permit, to amend the Planning Act to permit as of right one apartment in each house? No official or adjoining bylaw will be allowed to prevent any house from having two dwelling units at present in Scarborough, and only one unit is permitted in a house. Houses are single detached houses, semidetached



houses and row houses. A row house is defined to include both street town homes and multiple-family town house type of developments, a row house in a housing complex.

From what I see in the present bill, they don't like to include condominiums in this second-unit concept, which is not very fair. The Planning Act, 1983, is proposed to be amended to clarify that the authority to zone does not include authority to zone by reference to related persons. Therefore, can the living unit be defined for practical purposes by reference to its structural components?

I know that the city of Toronto bylaw includes a definition of converted dwellings, house and dwelling units, which presumably provides a reasonable level of certainty. Perhaps you could comment on the Toronto experience with that definition. Can bylaws drawn under the Condominium Act permit what Bill 90 proposes to permit?

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Then we've got condominium lawyers still trying to evict both landlord and tenants alike on the basis of the single-family concept. They also insist the unit is to be restored to its original condition. Who overrides whom? But according to the Rental Housing Protection Act a little while ago, they've been talking about the fact that those condominiums should be included under the Rental Housing Protection Act too, so that means they have to be restored to the original condition as well.

Who is going to supersede whom? The Condominium Act wants it the way it was built, original condition; the Rental Housing Protection Act says the way it was rented. So that has to be clear. There will be very serious economic eviction if the condominiums can get their way, if they can prohibit having a second unit in the condominium, even those condominiums that are sold and bought as a duplex condominium.

I'd like to say that the revised Condominium Act, Bill 81, should be an act, but it only went for first reading. Clause 99(c) binds the property and is enforceable against the successors and the assets the owner. That means anything that's there should be preserved, right? The grandfathering clause should be maintained. But I don't know what happened to this clause.

The Ministry of Housing in the mid-1960s offered \$2,500 for each unit produced. A total of 1,000 detached, semi-detached houses and town houses, as well as condominiums, could qualify for the incentive grant.

To me, it doesn't seem very fair. Because if the idea is to create affordable housing or intensification, does it really matter whether it is a stacked town house or it's a row house or it's a condominium or it's a terrace? If the unit is big enough, got enough room in it, something like what I've got, about 3,000 square feet of condominium, what am I going to do with one person with that amount of space? I can easily share with someone. It's got separate entrances and it is sold as a duplex condominium. According to Statistics Canada, these are classified as duplex condominiums.

I'm trying to see how my interests could be protected under this bill, because the Planning Act is definitely a

positive step. But whether they will touch the Condominium Act, there should be some amendment to accommodate this new bill before it becomes an act.

**The Chair:** Mr Khan, would you like to answer some questions from the members now?

**Mr Khan:** Right, yes.

**Mr David Johnson:** I take it then, Mr Khan, that what you're really asking is that condominiums be included in Bill 120. Is that what you're asking?

**Mr Khan:** That's what I'm trying to represent, yes.

**Mr David Johnson:** Because at the present time, you're aware that Bill 120, by itself, does not give an as-of-right ability to condominium owners to duplex their units. Bill 120 does not as it exists today.

**Mr Khan:** It has been changed. They didn't say anything in the original Bill 90, but they added that exception in Bill 120.

**Mr David Johnson:** Yes, exception to the Condominium Act, which means that, by and of itself, Bill 120—do you own a condominium?

**Mr Khan:** I own a condominium.

**Mr David Johnson:** Is it duplexed?

**Mr Khan:** That's the way it was sold in the real estate listing. Right? It was sold and income was sold, right to the bank, and the mortgage was given on the basis of that income.

**Mr David Johnson:** At any rate, Bill 120 would not permit you, as it stands here today, to duplex your condominium. You understand that, do you?

**Mr Khan:** This is what I've been told, yes.

**Mr David Johnson:** It's been my experience in dealing with various condominium associations that by and large the condominium associations do not support what you're asking for. Is that your experience?

**Mr Khan:** But it does exist, because when I bought the unit back in May 1990, I inquired about this unit and they said there were about 300 families living in this condominium, whereas there are only 220 units. There are 220 units and 300 families living up there. So naturally the practice is happening in this neighbourhood.

**Mr Fletcher:** Thank you for your presentation. As you know, there's usually a corporation involved in the condominium, and if the corporation itself were to enact bylaws within the corporation to allow apartments within existing condominiums, that would be fine.

This legislation does not preclude or does not disallow condominium corporations from saying yes or no. It's up to the individual corporations themselves. So if you're living in a condominium—and there is a corporation, I suppose—if they say no, then no is the word; if they say yes, then yes is the word. That's how it's voted on as far as the condominiums are concerned. Does that clarify anything for you?

**Mr Khan:** According to the John Sewell report on land reform in Ontario, he's suggesting that every government, every ministry should respect that report. Something like 120 should have regard, they should respect that.

The Planning Act, 1989, says for example in section 3 there will no distinction based on family. But the condominium is sending me letters: "Get rid of the second family or get rid of yourself." That's an eviction of the landlord and the tenant at the same time. That's a pretty draconian measure and it's pretty heavy-handed. Something should be done to protect this—

**Mr Fletcher:** What does your corporation say about second units in the condominium? Do they say okay?

**Mr Khan:** That's why I bought it. They did it on purpose because they wanted to sell the unit so bad, because it was under power of sale. So I made a deal. I said, "This is the way it's going to be," because everybody else is doing it.

**Mr Fletcher:** And it was okay.

**Mr Khan:** Including ourselves, until today. There is a double standard here. Now the corporation lawyer is sending me letters.

**Mr Fletcher:** What does the corporation say?

**Mr Khan:** About the situation? The situation looked like they—

**Mr Grandmaitre:** I did ask my question to staff and they'll come back to me at a later date.

**Mr Owens:** What was the question?

**Mr Fletcher:** Can I keep going then?

**The Chair:** I guess you can keep going for a minute.

**Mr Grandmaitre:** I'm sorry. My question was, under the Condominium Act, can you convert your condo? That was my question.

**Mr Fletcher:** It all depends on what the corporation says.

**Mr Mammoliti:** Okay. Thank you.

**The Chair:** Thank you, Mr Khan, for bringing a new view to this committee. We haven't heard this particular presentation during our three weeks, and we appreciate your bringing that to us today.

**Mr Khan:** All right. Thank you.

**The Chair:** This concludes the hearings for the day. The last group has cancelled. Therefore, we will pick this up in the continuing saga tomorrow morning at 10 o'clock. The committee is adjourned.

The committee adjourned at 1631.











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## STANDING COMMITTEE ON GENERAL GOVERNMENT

- \***Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)
- \***Acting Chair / Président suppléant:** Miclash, Frank (Kenora L)
- \***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)
- Arnott, Ted (Wellington PC)
- \*Dadamo, George (Windsor-Sandwich ND)
- \*Fletcher, Derek (Guelph ND)
- \*Grandmaître, Bernard (Ottawa East/-Est L)
- \*Johnson, David (Don Mills PC)
- \*Mammoliti, George (Yorkview ND)
- Morrow, Mark (Wentworth East/-Est ND)
- Sorbara, Gregory S. (York Centre L)
- Wessenger, Paul (Simcoe Centre ND)
- White, Drummond (Durham Centre ND)

\**In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

- Miclash, Frank (Kenora L) for Mr Sorbara
- Mills, Gordon (Durham East/-Est ND) for Mr Morrow
- Owens, Stephen (Scarborough Centre ND) for Mr Wessenger
- Tilson, David (Dufferin-Peel PC) for Mr Arnott
- Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr White

### **Also taking part / Autres participants et participantes:**

- Harcourt, Scott, manager, existing stock policy, housing planning and policy division, Ministry of Housing

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Luski, Lorraine, research officer, Legislative Research Service





## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 8 February 1994

## Standing committee on general government

Residents' Rights Act, 1993

Chair: Michael A. Brown  
Clerk: Franco Carrozza

# Journal des débats (Hansard)

Mardi 8 février 1994

## Comité permanent des affaires gouvernementales

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Président : Michael A. Brown  
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 8 February 1994

The committee met at 1000 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

SCARBOROUGH ACCESS TO  
PERMANENT HOUSING COMMITTEE

**The Chair (Mr Michael A. Brown):** The business of the committee today is to listen to public deputations regarding Bill 120. Our first presentation is from the Scarborough Access to Permanent Housing Committee.

**Mr Douglas Hum:** I'm Doug Hum, the chair of the Scarborough Access to Permanent Housing Committee. I have brought along for our submission our project coordinator, Lorraine Katryan, and, because the issue of fire safety is a great concern to us in Scarborough Access and seemingly to many deputants who have appeared and to members of this committee, we have invited the acting fire marshal to attend, Mr Doug Crawford. My submission will be about four minutes and Lorraine will take a minute or two, and then the acting deputy fire marshal will be speaking to you about fire safety.

Our Scarborough Access to Permanent Housing Committee was established in 1988 under the then provincial program, the local access to permanent housing initiative. Funding for the project began the following year and continued until restructuring of the program, with the end of the funding, in 1993. We were fully supported by the province. The local municipality contributed nothing to the effort.

In 1992 we served about 14,850 Scarborough-area residents. The funding for the project divided into the cost per client served worked out to about \$15 per client. We were very effective in our service. Our submission is based on our collective experience and the information and knowledge we've gathered over the years.

In the city of Scarborough we have populations that are of modest means, of low incomes, many assisted housing projects, social housing projects, but we have found in our work that accessory units meet a considerable portion of the housing needs in Scarborough. We understand that there are some 14,000 accessory units in Scarborough, with 100,000 across the province. Our experiences in direct service and advocacy in housing have led us to conclude that the current status of prohibition of accessory units in single-family homes is unacceptable, discriminatory, and does not recognize the changing realities in our communities.

Lives have been lost in illegal basement fires. There are tenants living in unsafe and unhealthy environments.

Depending on the judge, both tenants and landlords have no recourse to the Landlord and Tenant Act. Home owners who wish to convert cannot seek advice for adequate housing and safety standards from the local municipality without facing a cease-and-desist order. Tenants in substandard units cannot complain to the local municipality without facing an eviction notice.

The changing face of Scarborough needs and demands a variety of housing options. As a result, our committee has adopted a position of supporting the legalizing of accessory units in single-family homes and granny flats, also known as garden suites. This support includes the requirement that they meet adequate fire, safety and health standards.

From our work and in our experience attending the hearings, our committee strongly agrees with many of the points raised in previous submissions by the Second Occupancy Steering Committee on Housing, West Scarborough Community Legal Services, Metro Tenants Legal Services, the Federation of Metro Tenants' Associations, the submission by Mr Frank Lewinberg, architect and urban planner, and of course the Inclusive Neighbourhoods Campaign, which we endorse and are a member of.

In addition to the reasons outlined, changing demographics and smaller household size make a strong case for the recognition of accessory units. A provincial study, Children First, dated November 1990, points out that the replacement rate of 2.1 children per mother has fallen to 1.6. Families are getting smaller. The average household size has shrunk from 3.6 persons per family to 3.1. As a result, the single-family home which used to house a nuclear family with large numbers of children is now capable of housing two families of smaller size.

In the city of Scarborough there was a study undertaken by Mr Lewinberg which was later carried on by the Scarborough planning department. The study found in a survey that some 65% of respondents to a questionnaire approved the legalization of accessory units. This was very similar to a survey published in the Star the same year which showed 67%. The study pointed out that contrary to perceptions of members of Scarborough council, the community will not be overrun with conversions. They'll be brought in at the rate of roughly 200 per year.

The Housing Intensification report by the municipality of Metro in 1987 points out that there could be a potential 39,000 new units created across Metro if accessory units were legalized. We looked at the economic development aspects of these kinds of conversions. In our estimates, based on our meetings with contractors and architects, this could turn out to be about \$800 million in economic activity, creating some nine million person-hours of employment, because each accessory unit consumes up to 25 sheets of drywall, several board feet of lumber, wiring, plumbing etc, notwithstanding the refrigerators, appliances etc that go into these units. Granted, there won't be a massive increase; it'll be a

steady employment over many years. There's also a debate about owner-occupied versus absentee landlord. There are questions raised about absentee landlords and the upkeep of their properties. We do not believe absentee landlords are any more irresponsible than irresponsible owner-occupied landlords or irresponsible home owners. We agree that there may be some problem absentee landlords, but there are also problem home owners as well. Simply because there are a few cases should not be grounds for discrimination against a whole group of people such as absentee landlords.

The question of parking is also an issue. We agree with many of the previous submissions that state it's not a serious problem, but I would like to point out that in the city of Scarborough it costs on average \$5,000 to \$6,000 a year to own and operate a car. That puts it out of reach of many single parents, those on social assistance, the unemployed, of many.

Discrimination is something we have encountered as well, discrimination that verges on the level of defamation and hate. We have encountered racism, classism, sexism, homophobia, anti-tenant and anti-youth expressions.

In summary, I'd like to point out that legalizing accessory units empowers both tenants and landlords. It meets a housing need and also job creation and economic development. Most important, it's an issue of human rights and combating discrimination in all its forms.

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**Ms Lorraine Katryan:** I have two brief points to make. One is that we asked the Scarborough Housing Help centre, which deputed here last week, to conduct a mini-survey for us. We asked them to ask the people on their housing registry what they felt about legalizing apartments in houses. Some 76% of tenants supported legalizing, 85% of home owners supported legalizing and 87.5% of homeless people supported legalizing. These statistics are not uncommon for the general community.

The other point is that the Second Occupancy Steering Committee on Housing spoke here also. That committee invited people to send in letters of support to this committee routed through us. We are pleased to present to you today 131 letters from individuals who support legalizing apartments in houses, and 21 letters from organizations. This is a very quick, simple little effort which represents the tip of the iceberg of the support.

I would like to point out that this response came from many areas of the province, not just Scarborough, both rural and city, and included organizations like Lakehead Social Planning Council in Thunder Bay, the Canadian Mental Health Association in Thunder Bay, the Guyanese Heritage Association and a broad range of organizations and individuals. I would be pleased to leave these with the committee today.

OFFICE OF THE FIRE MARSHAL

**Mr Doug Crawford:** It's a pleasure to have the opportunity to appear before you today. Thank you for the time.

I would like to discuss with you the framework available under the Fire Marshals Act and the potential that exists under the fire code to address the fire safety

concerns associated with accessory apartments. I'd like to briefly talk about the fire loss record for Ontario and how that relates to accessory apartments.

Joining me is Bruce Weaver, who is a fire safety officer with the fire marshal's office, on assignment with our research and standards section. Behind me is Krystyna Paterson, who is a professional engineer and manager of our codes and standards section. I am a professional engineer, Doug Crawford, acting deputy fire marshal.

I've prepared a brief submission for you, but in the interest of time I'll skim over the first few pages.

To begin, the fire marshal's office is much more than what you hear about on the 5 o'clock news, that is, "The fire marshal's office is investigating." We have a broad role to play and we carry out many duties, basically as an overseeing role to the delivery of fire services in Ontario.

We have a legislative duty to provide guidance and advice to municipal councils and to provincial government ministries. We play a coordinating role for the fire service by providing leadership through many of our programs. We conduct research into the fire problem, and yes, we do investigate all fatal fires in the province. We compile a statistical database of all fires reported in Ontario and we provide analysis of those data. We develop and administer provincial legislation dealing with fire safety standards. That work is carried on by approximately 20 professional engineers, approximately 30 former police officers and some 100 fire advisory and fire safety officers.

Under the Fire Marshals Act, a municipal fire chief or fire official carrying out the fire prevention duties is doing so as an assistant to the fire marshal. It is their duty under the act to act under the fire marshal's direction. Their actions are subject to appeal to the fire marshal's office and to the Fire Code Commission. There are approximately 3,200 assistants in Ontario at this time.

On page 3, I outline a bit about the background of the fire code and the building code and how they work together as supporting documents. I'll skip through there and carry on with page 4 of the presentation.

The building code basically establishes the standard of fire safety for new construction, additions, substantial renovations and, most recently, changes in occupancy. The fire code establishes the continuing standard for fire prevention, firefighting and life safety in all existing buildings. In addition, the fire code establishes a minimum level of life safety in existing buildings. That's under the retrofit part of the fire code and what I will mostly be talking about today.

Retrofit of existing buildings under the fire code is the mandatory upgrading of those existing buildings to a minimum level of life safety. It generally deals with those buildings constructed prior to 1975, ie, before the introduction of the Ontario Building Code.

Special importance should be paid to the distinction here. The building code regulates owner-initiated actions; that would be construction, upgrading, renovation and, most recently, as I've said, change of use. The fire code retrofit deals with mandatory upgrading to the minimum



level of life safety. Retrofit is being included into the fire code on a staged basis, occupancy by occupancy. Generally, the standard for the minimum level of life safety is somewhat less than what the building code would dictate, and that's identified in figure 1 at the back of your report. This is mainly due to the fact that retrofit deals with minimum standards for life safety. The building code also contains provisions for requirements for property protection.

All retrofit legislation is developed on the basis of four principles of life safety: containment, means of egress, fire alarm and detection, and suppression. It is important to appreciate the interrelationship of the four principles and understand how they complement each other to provide that level of life safety.

A couple of important points: There's significant discretion in the fire code for the fire official to deal with existing buildings. Most important, it is up to the owner to comply with the fire code. It's like that for all occupancies.

Our initial involvement on the issue of accessory apartments began approximately five years ago by the fire service approaching us for guidance on how to deal with these type of units within a unit. An apparent rising number of these units were creating safety concerns and they appeared to be circumventing the normal regulatory system.

In order to provide direction to the fire service on how to deal with these occupancies, we originally developed guidelines. They were in the final stages of our normal review process when, in June 1992, the release of the Ministry of Housing and Ministry of Municipal Affairs document called Apartments in Houses contained many of those guidelines.

As a result of the initiatives contained in Bill 90 of the day, it seemed appropriate for us to formalize the guidelines into regulations to become part of the fire code. I would note that prior to these regulations becoming part of the fire code, the fire service can deal with these occupancies today by the use of fire marshal's orders.

Throughout the process the OFM and the Ministry of Housing have maintained a very close liaison. We recognize that there was some uniqueness to these type of occupancies.

The OFM struck a task group in the fall of 1992 to develop our regulations. It was agreed at that time that the recommendations coming from the task group would not only be used to develop the retrofit regulations but would also be used as a guide in the revision of the renovation section of the building code. That went forth independently from there. The committee was composed of representatives from other ministries, building owners and tenant associations, as well as building and fire officials and professional representatives. At the back of your report, in table 1, we have outlined the makeup of our committee. Final recommendations were arrived at in late 1993.

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The regulations: first of all, what they apply to, and then we go on with those four principles of life safety I

talked about. The regulation would apply to detached houses, semi-detached houses or row houses that, quite simply, would contain two units within the one unit.

In the containment section we would require dwelling units to be fire-separated from each other. For instance, this section would require a separation constructed from drywall on wood or metal framing, with a solid-core wood door at any connection between the two occupants.

A home owner also has the option, in the draft regulations, of providing lesser grades of separation between the two units should they install an interconnected smoke alarm system or should they sprinkler the building, so there are alternatives.

With respect to means of egress—in other words, getting out of the building—each dwelling unit must be served by one of the following: either a door opening directly to the outdoors, or one means of escape that may be shared if it is fire-separated from the remainder of the building, leads directly to the exterior and has limitations on the flame spread within the path of travel.

The third option is two means of escape that would include a doorway that may lead through another dwelling unit and a window of certain minimum dimensions. If you choose that option, you also have to have an interconnected smoke alarm system from one unit to the other so that if there is a fire in one unit, the occupants in the other unit are quickly notified that there is an emergency. I've identified there what our specific requirements will be, and I can deal with questions at the end.

The last option is that if you have an existing means of escape that you want to leave in place, that's acceptable if you sprinkler the building.

A smoke alarm is required in each dwelling unit. It may be battery-operated or hard-wired.

We deal with suppression in that if you choose a sprinkler system it would have to be to a certain standard. We are not proposing mandatory sprinklers for these occupancies. This would raise the level of protection afforded under the fire code retrofit to a level higher than what is currently contained in the building code.

Last, each unit covered by this section would be subject to a one-time electrical inspection.

That, in a very short overview, is what our proposed regulations will contain.

Going on to touch on the Fire Marshals Act, because I understand there have been some questions about the powers in the act, the Fire Marshals Act provides the legislative framework for most fire safety activities of the office of the fire marshal and the fire service.

Section 18 provides the power to inspect all buildings and premises, and for such purposes the assistant to the fire marshal may at all reasonable hours enter into and upon the building for the purposes of examination. Upon certain conditions, the fire service may issue orders for the upgrading or closing of a building. In the latter case, the approval of the fire marshal would be required.

Section 18.3 is a recent addition to the Fire Marshals Act. That section says that if the fire marshal or an officer has reasonable grounds to believe a risk of fire



poses an immediate threat to life, he or she may without warning enter any land or premises and, for the purposes of removing or reducing a threat, may take minor corrective action. There are significant fines in the act for persons who hinder or disturb the fire marshal or the officer in the exercise of their duties. We do agree that in some cases entry may be delayed by, for example, someone not being home or refusing entry. To our knowledge, the latter case would be a rare occurrence.

At this time, it is our opinion that the enforcement provisions in the Fire Marshals Act provide a reasonable balance between the need for access and the right of an individual. To us the priority seems to be identifying that these units exist.

Finally, section 19 of the Fire Marshals Act sets out the enabling legislation for the fire code, which is the document within which the retrofit section would fall.

Last, you undoubtedly wish to know the fire safety record for these occupancies. I wish I had definitive answers, but we don't track basement apartments separately. I do not believe, however, that the issue is, are these occupancies more hazardous than other residential occupancies? The issue to us is that residential occupancies are the location of 93% of our fire fatalities which occurred between 1983 and 1990 in a study we conducted. That's highlighted in figure 2; there's a pie chart there. Analysis of the current data indicates this percentage to be roughly the same; ie, around 90% of fire fatalities are occurring in residential buildings.

We review a number of fatality scenarios, and one of those is identified in figure 3. Briefly, of the 96 fatalities up to September 1993, 63 occurred in residences where smoke alarms were not present or did not activate. Only 10 occurred in residences where the smoke alarm was known to activate.

These figures are dramatic when you consider that we estimate from recent surveys that 54% of dwelling units have an operable smoke alarm. In other words, of the 54% we clocked 10 fatalities in that 10-month period, and of the other 46% there were somewhere in excess of 60 fatalities.

Due to the limitations of our statistics, we carried out a separate review of some of the fire records our investigators had actually compiled in carrying out their duties. We did that for 1989 and 1990 to give you a little background as to what we are seeing. In 1989 there were 115 fire occurrences in Ontario residential properties that resulted in 161 fatalities. A review of the associated investigation reports identified two incidents that occurred in basement apartments. In both cases, the fires occurred in the basement dwelling unit and each resulted in a single fatality. In one of the cases, the basement of a three-bedroom bungalow contained a two-bedroom apartment. The fire originated in a pot on the kitchen stove early in the morning and spread throughout the apartment. Smoke migrated up to the main floor. The smoke alarm located in the first-floor kitchen was activated and it was actually the first-floor occupants who became aware of the fire. The occupant in the basement did not survive the fire. Separations were missing, and of course there was no smoke alarm.

In 1990, there were 110 fire occurrences in Ontario residential properties that resulted in 132 fatalities. A review of the associated investigation reports identified four basement apartment incidents that resulted in five deaths. In the incident I've highlighted for you here, it's the scenario where a smoker's materials ignited a living room couch. I'll quickly jump to the middle of the page.

The scenarios reviewed for basement apartments are similar to the overall residential statistics we have: smoking articles starting a fire in the living room or sleeping area; the pot on the stove that I mentioned.

Since the development of the original guidelines and our subsequent draft regulations, we have evaluated most fatal fires in this type of occupancy against those documents. You can never be sure whether the legislation will stop a specific fire from becoming a fatality, but we believe that if the occupancies were retrofitted, as we are proposing and as outlined in the draft, many of those fatalities and injuries would have been preventable.

So far, retrofit legislation deals with minimum fire safety standards for the following residential occupancies: rooming, boarding and lodging, low-rise, high-rise. Hotels are regulated under the Hotel Fire Safety Act. A proposal for mandatory smoke alarms for single-family dwelling units is currently being considered. Dealing with the accessory apartment issue is one more step in our commitment to reduce the fire losses.

To conclude, I would like to say that we believe the accessory apartment draft regulation will play a significant role in addressing the unacceptable fire losses in residential buildings. However, all of these regulations I have mentioned deal with a failure: The fire has already started and we're trying to mitigate the results. To be truly effective, we must not only focus on the regulations but on changing our attitudes. We cannot regulate carelessness but must educate against it, and many of our initiatives are not only in the regulatory area but are also dealing with those things.

**The Chair:** Does the presentation you have just made represent the views of the Ministry of the Solicitor General? In other words, is this an official presentation of the Ministry of the Solicitor General?

**Mr Crawford:** Yes, an official presentation of the Ministry of the Solicitor General, office of the fire marshal.

**The Chair:** I think it was necessary to clarify that. Thank you very much for appearing. It's unfortunate that the 30 minutes allocated has expired.

1030

#### ONTARIO FRIENDS OF SCHIZOPHRENICS

**Mrs Elsie Etchen:** I am Elsie Etchen, president of the Ontario Friends of Schizophrenics. With me is June Beeby, the executive director of the Ontario Friends of Schizophrenics.

We thought we would begin with a brief outline of who we are, a brief description of what schizophrenia is, and then outline to you some of our concerns, perhaps adding a few questions. Our interest is primarily in the Landlord and Tenant Act, so our comments are almost exclusively restricted to those amendments. We passed



out a handout. I won't read it all; I'll just go through some of the highlights.

Ontario Friends of Schizophrenics is a family-based organization. We are an organization of families of persons with schizophrenia; our organization includes the families and the persons themselves. We have a membership of about 3,000 across the province. What we do is support and educate the families of people with schizophrenia; we educate the public about the disease, not only education but also making them aware of the disease; we advocate for improved services for our loved ones; and we also hope to increase the amount of money that's available for research that will lead to improved treatments.

The extent of the concern we have: There are about 45,000 to 50,000 people in Ontario with this disease at present. It's a lifelong disease; it occurs in early childhood. At the moment there is no cure for it and the symptoms are controlled by neuroleptic drugs, so it's a lifetime concern. The symptoms include delusions, hallucinations, abnormal speech, extremely erratic behaviour and absence of responsiveness. The things you've usually associated with "madness" are typical of schizophrenia. It runs in families, and as we've said, the brain damage often begins in early childhood and perhaps may occur even before birth.

One of the reasons we're here is the statistics we have presented to you. Only about 25% of the people who get this disease are fully recovered and able to work as individuals like you and like me in society. Of the other 75%, 10 years after onset, 10% of those will be dead but the rest will probably be needing a great deal of support.

For most of the people with schizophrenia, for those who don't work, their only source of income is family benefits and general welfare assistance. These people are often referred to as ex-psychiatric patients, or sometimes I guess other things, but all of them continue to live with this disease. We are unfortunately aware that many people with the disease fail to take their medication, and this is one of the reasons that housing for them is so difficult, because when they become delusional or psychotic and they disturb other people, then landlords and people who offer them accommodation find it easier not to keep them in their premises.

We also wanted to tell you that about one of every three of the homeless people you see on the streets is suffering from severe mental illness, and one of these severe mental illnesses is schizophrenia. "Parkdale" is a euphemism for the housing disaster facing many ex-psychiatric patients, as you're very well aware, and "boarding-homes" is another one that is often used.

As I mentioned at the beginning, we're primarily interested in the Landlord and Tenant Act. We're very, very pleased that you'll be protecting the residents in some of Ontario's heretofore unregulated accommodation. As was mentioned, we have some questions about it and a few concerns. We think the amendments being put forward recognizing the rights of persons living in this accommodation are an important step forward, but these are some of the issues or concerns we want to raise.

The coverage of the act itself: Maybe because we're

not lawyers, we're having some difficulty with this, but we're asking you if the wording of this bill covers boarding-homes and rooming-houses where some care is given. We know the definition of "residential premises" includes "the purpose of receiving care services"—that's under section 1(2) and (3)—whether or not the receiving of the care is the primary purpose, and then you define some exemptions. But we note under section 2 that care services do not include meals, so we're very anxious about what's going to happen to boarding-homes. A boarding-home or a rooming-house where the services provided do not include care services as defined in section 1(1) of the bill may present some difficulties, in our view, in interpreting whether this legislation applies. In other words, a landlord provides care only, and not care services as defined in your bill, does this bill really apply?

Perhaps we could just remind you that in northern Ontario, many of the accommodations into which ex-psychiatric patients go are not boarding-homes, just rooming-houses, and sometimes the care is provided by the people living in the house themselves and sometimes it's provided externally.

We're very concerned about the issue of, if a landlord provides some degree of care and not care and services as defined in this bill, does the bill apply to them? We're most anxious that it should.

On the subject of evictions, we're a bit on the horns of a dilemma because we're perhaps at the low end of the housing scale; at least, many of the persons with schizophrenia who are living in the community are. When we outline the places they live, many of them, as I've already said, live on the streets. Most of them who don't live with their families require varying degrees of support services and many of them don't receive their support services, and we know there are often troublesome tensions when people are integrated into public housing. We're not being critical of the housing sphere at all, because it's the lack of support systems rather than the housing that's the problem.

But it is the lack of support systems that is the reason persons with schizophrenia may be forced out of their housing. They may be asked to leave because the enjoyment of the premises and safety of other persons living in the same place may be a consideration.

Agencies providing accommodation for ex-psychiatric patients sometimes require those admitted to their premises to be on medication before they admit them, so the admission criteria sometimes exclude people with schizophrenia.

1040

Another reason we've raised often with various government civil servants and perhaps other government committees is the Mental Health Act itself. It makes treatment of incapable persons difficult, and we haven't been able to persuade the government to make access to treatment easier.

As I've mentioned, we're on the horns of a dilemma relating to evictions and grounds of behaviour, because the persons in the home who may be exhibiting the



bizarre behaviour are probably persons with schizophrenia and the alternative for them if they're evicted may be going on the streets. So we have both sides of the eviction issue to consider.

We know, and perhaps you all know too, the police can be called and there are Mental Health Act provisions that may be used, but the community crisis services that are being made available don't have psychiatrists attached to them; medication is the way behaviour can be modified. Also, form 1 and form 3, which you may be familiar with, under the Mental Health Act do require a medical doctor to sign them.

We are also aware that evictions can take months, and we describe in our brief some of the problems with the Mental Health Act.

We also would like to tell you that doctors are becoming somewhat more reluctant to find that persons are a danger to themselves or others or that they're in danger of physical impairment. It's becoming increasingly difficult to have a person with schizophrenia committed, so there are increasing numbers of very ill persons with schizophrenia in the community and some of them on the streets. Many people with schizophrenia go through revolving doors, that is, one accommodation after another. Some of them are quite disruptive, and we recognize that, but we also know it's becoming increasingly difficult just to take them for an assessment or have them committed.

What we're going to suggest to you is that landlords, when this occurs, have access to some sort of emergency care. We're suggesting you look at the Substitute Decisions Act and "incapacity for personal care," because that includes an inability to understand information relevant to making a decision concerning their shelter. It also provides for investigations of "serious adverse effects" by the public guardian and trustee and an application for temporary guardianship by the public guardian and trustee.

We're urging you, at a minimum, where a person appears to be mentally incapable and they're about to be evicted because they're disruptive or they can't remain in the home, to consider a provision requiring a landlord to advise the public guardian and trustee that serious adverse effects are likely to occur so that at least the person who is being evicted gets some chance of somebody doing an intervention or somebody providing some assistance to them.

We know there have been discussions about a fast-track eviction process, the one that was recommended by Lightman. We haven't been a party to any of these and we cannot comment on them at all, except that we urge you that if you adopt something like that, you think of the person who is about to lose their accommodation, not just the persons in the accommodation but the person him- or herself who's about to lose their accommodation. We think the route through the Substitute Decisions Act might help them.

Transfers to hospitals: We are concerned that there be speedy transfers of the severely mentally ill to an appropriate facility. That's someone in a psychotic state. We think eviction is not the appropriate way. If you can't use

the Mental Health Act, there must be some other way.

We also comment on the subject of access to rooms with 24 hours' notice. We assure you we know the need for privacy, but most of the people who have schizophrenia who live in rented accommodation require some supervision of their care. We also know that when they're off their medication, sometimes their voices tell them to do dangerous things. I spent some time last week with one of our chapter presidents discussing a person who had been let out of a mental hospital recently because he couldn't be committed and was setting fires and had barricaded himself in his room. Those are the kinds of problems landlords face.

Our concern is that landlords who rent accommodation may exclude persons with schizophrenia because they may be unable to provide the appropriate supervision. We don't have any specific recommendations to make, but we want you to take that into account when you're considering these amendments.

We are concerned also about the contracts that some municipalities have with agency operators under the General Welfare Assistance Act to provide care services. We have a number of relatives included in these contracts and we are a little unsure what's going to happen to these contracts under these amendments, so we'd like to ask you, what do you think the impact of this act is going to be? We couldn't quite understand it or quite understand what you intended to do with them.

We also comment that standards of care are not included, that it's a tenancy act. We realize that arises out of Lightman, that he was anxious that these not be institutions and recommended that they not be too closely regulated. However, he did comment on medication and staffing and other things like that, that some sort of minimal standard needs to be put in place. We were wondering if it would be possible for you to put in a clause enabling the Ministry of Health to look at some of the essentials or basics, the elementary things Lightman recommended about medication. We're also very much aware that some of the food in some of these boarding-homes is not very satisfactory.

We're concerned about the termination of tenancy and we raise a few issues about that. Under possible additions, we bring to your attention the fact that the Ministry of Health has had a system of classification of group homes that depended on the level of care provided in the group home. You've got a bill here that treats everyone alike: One size fits all, I guess, is the current expression. We were wondering if it might not be possible for you to consider some variations in the application of this bill by the kind of care that's given. We're at the bottom end of the accommodation spectrum that Lightman dealt with. Maybe those at the top and those at the bottom could be dealt with somewhat differently.

Under the Rent Control Act we're just asking you a question. Nearly all of our relatives who live in these premises are either on family benefits or general welfare assistance. We're wondering about the tie-in between the Ministry of Housing and the Ministry of Community and Social Services. If increases are applied for, who's going to steer this in the future? As you probably know, with



the accommodation in homes the rental has been geared to the social assistance allowance, and when the allowance goes up the charges go up, so things are kept somewhat in tandem. We're concerned now about what's going to happen when applications are made for rental increases. Will the social assistance automatically go up if the charges go up? Who's going to steer the system?

Those are our comments. We don't want to appear too critical, because we think this is going to have a major impact and improve the lives of persons with schizophrenia very considerably.

1050

**Mr Hans Daigeler (Nepean):** You certainly raise some very important points, and I appreciate the sentiments and the direction you are coming from. At the same time, we have had representation from quite a few groups who have said they're very concerned about the impact on others and the ability to provide medical services to others if there isn't a means to remove tenants, especially people in a rehab setting, from the community. How do you feel about this dilemma between, on the one hand, the right to housing, and on the other hand, the right of others to be rehabilitated and to be helped in their effort to become healthy again?

**Mrs Etchen:** Those are the horns of the dilemma we're on, because the persons who are likely to be evicted are persons with schizophrenia, and many of the persons who are in these homes for, as you say, rehabilitation purposes or for accommodation purposes also have schizophrenia. We're on the horns of a dilemma.

We suggest that you maybe consider a scheme where you have levels of care, and at the bottom you have different provisions about sort of evictions and transfers to hospital from those you have at the top, the retirement or rest home. We wondered if it might not be made a bit more flexible, with the eviction provision changed so that it isn't considered an eviction but is considered a removal that's in the best interests of the person himself to be admitted to a hospital or admitted to another place.

This is why we're suggesting that you contact the public guardian and trustee. If the person is to be evicted, if I may use that word, if a person is to be transferred out of the institution because of his bizarre behaviour, consider him too and have some sort of guardianship or intervention on his behalf.

But we agree with you. We know there are some very bizarre behaviours, and you need to take these into consideration. We hope you can have a graded system of applications of the act itself.

**Mr Daigeler:** I appreciate that suggestion.

Not talking about the rehab homes now, because you talk about general landlords as well and the difficulties they face with the people you're talking about and acknowledge the real difficulties, I wonder how fair it is to put as a burden on the landlords what is essentially a health problem. Is it the role of the landlord to have to provide the community support services and the health services that unfortunately are needed in those cases?

**Mrs Etchen:** I don't know whether there's a simple answer to that question. Many of the support services are

now being provided offsite, and the problem with some landlords is that they are not very anxious to incur the extra burden of having special arrangements made. This is one of the reasons we're concerned about the General Welfare Assistance Act and what you're going to do with that, because if there are contracts for providing services that exist now, we would like to see them continue.

As for the landlord and his responsibility for providing support services, these are called care homes and you have a definition in the act of care services, and we think this is what the landlord should supply. Our concern is, is there a difference between care services and care homes? I don't know whether the landlord should always supply them; we're flexible on that issue.

**Mr David Tilson (Dufferin-Peel):** You've raised many issues for us to consider. This bill is called An Act to amend certain statutes concerning residential property. There may or may not be a problem of a shortage of housing in some areas and not in others. That's an issue. The other issue which has all of a sudden surfaced in this bill is the problem of mental and physical health care. Those problems clearly exist, there's no question.

**Mrs Etchen:** No question, absolutely none.

**Mr Tilson:** All you've got to do is read your paper or papers like yours.

**Ms June Beeby:** Or look on the street.

**Mr Tilson:** Of course. As a member of the opposition looking at these problems, we have Ministry of Housing, we have Community and Social Services, we've got health care. The Ministry of Housing will be putting forth regulations under this bill; for example, tenure is going to be regulated but standard of care is not regulated by Bill 120. That's the major criticism I have.

I'm not challenging the problems, the very genuine problems, you raise in your paper. The question I put forward to the government is that I believe it's creating a bureaucratic mess, because I think all of these care problems that must be dealt with cannot be dealt with by the Ministry of Housing and should be dealt with by other ministries which have people trained to put forward regulations and deal with these things.

You start mixing it up, and it gets back to what Mr Daigeler raised: How in the world are landlords in boarding-houses and other places going to be dealing with health problems? They have no idea how to deal with them.

**Mrs Etchen:** That's right, and that's why we think you should put a provision in here enabling the Ministry of Health to provide standards for these accommodations. We couldn't agree with you more. I mean, we don't have a mental health system in this province. We've just got fragments and bits scattered all over that are uncoordinated, in Housing, MCSS, Health.

You're dealing with tenure, and in the boarding-home situations we are aware of, you do need some protection of persons. Lightman used the term "garbage bag evictions." Those things occur and we need to help people in that way, but we also need to deal with the whole mental health issue.

**Mr Tilson:** Lightman is dealing with the regulation of



care homes, but that's not what this bill was originally supposed to be for. This bill is to deal with the problems of housing: basement apartments—granny flats, to use the sexist expression that originally was put forward, and now they're called garden flats. But the problems you're putting forward have to do with mental and physical health care. I'm really repeating what Mr Daigeler said: If anything, it's going to create more of a conflict.

**Mrs Etchen:** It could.

**Mr George Mammoliti (Yorkview):** First of all, you raise a good point about rent control and the relationship between Community and Social Services and the increases of rent. That is certainly a question I'd like answered as well, because I'm not too sure about it. I'd ask direction from the committee about whether this piece of information might be useful. It might be something we want to talk about later.

**Mrs Etchen:** If you get an answer, could you tell us? We're very, very anxious about it.

**Mr Mammoliti:** I'm very interested in the answer myself. Could you provide us with any statistics about people living with the disease who occupy the accommodation provided out there right now? For example, I know there are a lot of people suffering from the disease who rent regular apartments on a regular basis. What statistics are available for us about those who have posed problems to the landlords in relation to these fires you were talking about or destruction of property or that sort of thing? Are there statistics that would give us an indication that there is a problem out there that we need to address in the way you're talking about?

1100

**Ms Beeby:** We only have anecdotal information from the things our families tell us are happening to their relatives. We don't have the resources to gather those statistics as an organization.

**Mr Mammoliti:** Is it a big problem, do you find?

**Ms Beeby:** It's a big problem for the people who are being harmed by the situation, who are suffering as a result of it.

**Ms Etchen:** Certainly we hear about all of these cases. We don't hear about things when they're going well, we hear about them when they're not going well: the problems of not being able to get your child treated, the problem of not being able to get the bizarre behaviour under control. Our executive director deals with half a dozen a day or half a dozen a week, I'm not sure, but we're hearing about these all the time. Bizarre behaviour or quasi-destructive behaviour—talk to people in the public housing field about people's schizophrenia. The major problem is the bizarre behaviour and the lack of ability to control this and have other tenants enjoy their premises. It's a problem, but we don't have statistics.

**Ms Beeby:** But you can't separate housing for the seriously psychiatrically ill from all the other services. I think the greatest villain in our people being housed decently is the existing Mental Health Act, where somebody is clearly acting bizarrely but because they aren't pushed to dangerousness for themselves or others, they're allowed to deteriorate, get kicked out of their apartment,

and nothing is done about it. I know that's not your mandate, but you can't ignore the whole picture. A change in the Mental Health Act to allow people to be taken care of because they need care would go a long way towards solving some of these problems. You're right: I don't think this act can take care of the most seriously ill.

**Mr Gary Wilson (Kingston and The Islands):** It is a housing act.

**Ms Beeby:** I understand that, but as a society we can't separate out in neat little pockets: This is housing and this is something else. People need a place to live. People we're talking about need it desperately, yet it looks as if this is not going to help our people that much.

**The Chair:** Thank you very much for appearing before us today. You've raised some interesting issues.

KENNETH BROWN, GERRY THOMAS,

PAUL MAUCHAN, SHERRYL JUDD-WILLIAMS

**Mr Kenneth Brown:** Good morning. My name is Kenneth Brown. Along with two other speakers representing many Toronto-area residents living in shared non-profit accommodation, I will be addressing you briefly about some serious concerns we have about Bill 120. First, we're going to hear from Gerry Thomas of 147 Queen Street, and then Paul Mauchan of 90 Shuter Street.

**Mr Gerry Thomas:** I am Gerry Thomas, a resident at Keith Whitney Homes at 147 Queen Street. We as a group here support Bill 120 and the rights of individuals. However, we feel the rights of the broader community must not take second place to those of the individual. We feel the proposed legislation does not recognize the realities of life for those of us living in shared accommodation and should be amended to better reflect the intent of our licensing agreements in dealing with very real concerns about safety in our communities, from acts of violence, illegal activities and possession of weapons.

Keith Whitney's mandate is to provide safe, secure, affordable housing to those who are hard to house. The project provides 100% rent-geared-to-income, non-profit shared accommodations for 194 single adults. Its aim is to assist the homeless and those living on limited income to obtain and maintain housing and become stable in the community.

In these shared accommodations, four, six or eight people each have a private single bedroom and share a common kitchen and living area. Two residents in each area share a washroom. The overall population of our project is divided 50% female and 50% male. To get into Keith Whitney housing, there is no screening of prospective residents. Bedrooms in these apartments average about 7 by 12, with the common areas being approximately 300 square feet. As you can see, people must coexist in close proximity, and personal safety is paramount.

We have a resolution process. We try to work on a solution that is acceptable to all parties and is directed to residents maintaining their housing. But the resolution board, which consists of two members of the community and two members of the board of directors, has the ultimate responsibility to resolve the conflicts in cases



where no mutual agreeable solution is achieved.

During the period of January 1, 1993, to December 31, 1993, of the 45 resolution boards held, only five people lost their housing. In those cases, all who lost their housing had been before the board on a number of occasions for similar violations.

To demonstrate how this process works, I cite a recent case of a woman on drugs who threatened violence and even death to her female apartment mates while wielding a knife. She was convinced to put the knife away but proceeded to attack one of her roommates with her fists. At this point, staff were called to try and calm the situation, but the woman lunged at the staff member, who returned to the office to call for police assistance. The police arrived within 15 minutes and were taken to the scene. After discussing the whole situation with the residents, the police charged the woman with assault and removed her from the building. Within 10 minutes of being removed originally, she was back at the front door kicking at it and screaming obscenities. The police were again summoned, and she was again taken away and didn't return that night.

This case was taken before our resolution board, and the woman was able to maintain her housing, with the stipulations by the board that she seek help for drug abuse and violent behaviour.

If we had to deal with this situation under the Landlord and Tenant Act, when the police released the offender she could have just returned to the shared accommodation and put the safety of the other tenants at jeopardy. This could last for some period of time until the eviction process was carried out, two months to a year or longer.

Although I've emphasized safety throughout, we have a responsibility to protect the rights of the community in other areas, such as personal security. Points which you might find trivial could be of profound effect on those living in shared accommodation.

We don't have time to cover all our concerns, but I invite any member or the committee as a whole to visit our housing projects and sit with us and discuss these concerns so we can demonstrate how you can best address the important concerns we have in shared accommodations.

**Mr Paul Mauchan:** My name is Paul Mauchan. I'm a resident at 90 Shuter Street, a project of the Homes First Society; 90 Shuter Street is an 11-storey building with four- and five-bedroom shared apartments.

The residents of 90 Shuter have no problem with Bill 120 except for the time it takes to follow certain steps, especially those leading to eviction. At 90 Shuter, we follow an arbitration process to resolve problems and make fair decisions. The members of the arbitration committee are residents and volunteers. This process is fair because there are many steps taken to ensure fairness and protection to the residents. For example, they cannot just be thrown out into the street. The residents have opportunities within this process to explain their side and their concerns. The arbitration committee then comes to an agreement with the resident and makes a decision. If the resident is not satisfied with this decision, they can

appeal it to another committee.

This process is very productive and clears problems much more quickly than we feel the court system can. We all know that the courts are very overloaded and, through no fault of their own, move much more slowly. This process allows for resolving daily problems around sharing, noise, cleaning etc, but it also provides due process for removing violent or dangerous residents from the building quickly and permanently.

**1110**

Last year there was an incident of violence in an apartment, involving one resident attacking another with a knife. The violent resident was arrested but also evicted from the building in very short order. This situation, if dealt with under the Landlord and Tenant Act, would have resulted in a much longer process of eviction of this resident, leaving their apartment mates asking: "Is this person coming back? Am I safe, and can I go to sleep?" These residents will not be protected by the Landlord and Tenant Act.

Please take these concerns of all residents in shared accommodation into consideration and make necessary amendments before the bill is passed. Thank you for your time and for listening.

**Ms Sherryl Judd-Williams:** Bonjour. My name is Sherryl Judd-Williams. I am here on behalf of StreetCity, which is where I reside. My primary concern regarding Bill 120 is not to oppose it, but only to welcome it with suggested amendments which would affect me as a concerned resident-citizen. I personally agree with Bill 120, but from my viewpoint, I would like to see it amended so that perhaps the bottom line is to ensure that all residents in shared accommodation would feel secure.

As a fairly new resident of only one month, the new kid on the block, I have had the opportunity to see certain situations that have taken place within my particular housing. Some of these situations have resulted in the police being called in; others have been resolved through our community's mediation process.

Prior to moving to StreetCity, I have to be honest and admit that I was fortunate to reside in rental dwellings where I was not subject to most of the common happenings that occur in my current residence. Now that the shoe is on the other foot—mine—I have been made aware of just what takes place in the real world.

Community living to me has always meant that those of us involved should put a great deal of effort into the place we call home, thus ultimately striving for a more secure community. In doing so, we should all try a little harder to understand that each and every one of us is unique, and yes, we're only human and we make mistakes, and yes, we will learn from them, as we all come from all walks of life.

Emotional upsets arise from time to time, depending on the particular crisis involved. It is very sad that most crises are dealt with through violence, alcohol, drug abuse etc, instead of utilizing much-ignored common sense. My main concern as a resident is how Bill 120 will affect the safety of myself and others at StreetCity in case of a violent situation, because the existing process to evict a



violent individual through the court system may take as long as six months or even more. Meanwhile, that person can remain at StreetCity and threaten the people living and working there.

All I am asking is that Bill 120 be amended so that there is a faster process to evict violent individuals and drug dealers to therefore enhance the safety of our community. Thank you very much for your attention and have a nice day.

**Mr Kenneth Brown:** I'm speaking today on behalf of the tenants of Houselink Community Homes, an organization which provides affordable cooperative housing for ex-psychiatric inmates and other "hard to house" people, an organization that does so very successfully for almost 300 Toronto residents.

"Crazy people are dangerous": This is a widely held belief. The more sophisticated among us would probably say crazy people can be dangerous. Those of us who have a faint glimmering of Utopian outlook in regard to social administration might prefer to say that anybody who is dangerous is inherently crazy. One way or another, there are a lot of crazy people about. But I digress.

I'll read to you a few examples from Houselink tenants who have encountered dangerous domestic situations. These examples are from letters which have been appended to the package you've got.

First example: One resident, acutely psychotic, attacked another of his roommates. It took two days before he was voluntarily admitted to hospital. The attacked resident had to be accommodated elsewhere, which cost Houselink several hundred dollars. A rapid eviction was in order, and even the attacker agreed.

An eviction occurred where one resident was found to be sexually aggressive and with violent tendencies as well. A potential attack had to be averted.

These were not garbage bag or arbitrary evictions, by any means. When tenants threaten bodily harm, undertake illegal activities, or sexually assault or harass someone in a serious manner, emergency eviction procedures should be available as an option.

I might add that I have not felt discriminated against on any grounds in my accommodation. Houselink staff do not invade privacy or harass tenants, in my personal experience.

Example two: "We are five people who live in a cooperative house. We all have our own psychiatric histories and need stable, quiet housing. A prolonged eviction procedure will no doubt increase our stress and make our psychiatric problems worse, thereby preventing our healing and...return to the workforce.

"Once, in this co-op, a person threatened everyone violently, including threatening one of the women with rape. An immediate eviction was the only way to prevent the others from suffering from this person's anti-social behaviour. Without immediate evictions, these other residents would lose their right to live in a stable atmosphere and may decide to leave, perhaps becoming homeless in the process.

"Because the membership controls the Houselink Community Homes, we are in the best position to decide

who needs to be evicted and how quickly in a collective manner. Therefore the Landlord and Tenant Act should have a provision for our type of housing to be allowed to evict people when required, as quickly as required."

Example four: "I live in a cooperative living arrangement where there are four rooms being rented including mine.... If someone in the house ever got violent towards me or any other house members, the removal of this particular person could take up to six months. This is very frightening."

Example five: "One long-time resident began to do things like getting angry at other residents, yanking the phone out of the wall, banging objects around in a threatening manner, leaving the house doors open on cold days and turning off the pilot light on the furnace.

"One evening in October we were freezing and there was no heat in the house. We called Consumers' Gas. They came in to check the furnace. The serviceman said the pilot light was off and a live wire had been connected to the furnace...that the furnace might have exploded.

"This is the kind of life-threatening situation that requires immediate action to remove the dangerous person from the house and to prevent their return.... A lengthy eviction process leaves the remaining residents of a shared unit unprotected.... The proposed law should take this into account."

This last is a good example of how tenant misbehaviour can result in a serious threat to property as well as to life. One way or another, there are a lot of crazy people about and sometimes things go wrong, often when someone strays from strict adherence to their prescribed path of stabilizing medication.

When potentially violent situations arise between housemates, we are faced with a complex situation. Available remedies are not effective or speedy enough to protect us from violence or intimidation when things go awry. The problems we're talking about arise with shared accommodation, not single units. Sharing a house with other people is different from living alone in an apartment.

Most of you have a family at home: a wife, a husband, children, perhaps an elderly family member living with you. You're used to making family decisions which affect your lives as well as enjoying this mutual support on a daily basis. Some of us are not so happily endowed. We live cooperatively for reasons other than financial. In doing so, we avoid the social isolation that can be so devastating to people already vulnerable to a sense of disfranchisement. In many senses our housemates provide a substitute family. We strive to collectively decide how to live together and solve our problems.

Among the many submissions made to you over the past few weeks, there have been several touching on these problems of social intervention and misbehaviour in shared accommodation. Some, like the letter from Toronto Christian Resource Centre, which is appended, make very specific suggestions about accelerated eviction procedures in dangerous situations. We feel these merit your serious consideration.

Bill 120 has been referred to as the Residents' Rights



Act. We ask that you ensure it lives up to this lofty title and fully support the fact that all tenants must be spared the threat of eviction without appropriate legal protection and fair process. But we are not legislators. We lack the skills needed to frame the law in such complex matters. That is your job. What we require from you is the administrative flexibility that recognizes our special needs and the importance to us of having an ability to make our own decisions regarding domestic affairs. This will allow us to continue to feel safe at home.

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**Mr Tilson:** Thank you, all of you. I'm sitting listening to what you are saying. There's no question that we all are from different political, economic, educational and cultural backgrounds. One of the issues is, how do we get along?

The other issue is, not only have we read about the violence in the schools and violence in the streets; here you're giving examples of violence in the residential dwellings. What are we going to do about it?

Much of this debate develops on landlord versus tenant, but that isn't always the case. You've just given examples from your own situation of the problem of protecting the individual tenant versus the majority of the tenants. That individual tenant may disagree with some of these allegations of violence, notwithstanding that they may have been seen doing them. You get into all those difficulties.

I was interested in the suggestion by all of you about immediate eviction. Under our current law, the Landlord and Tenant Act, whether for your situation or any other landlord and tenant situation, that is virtually impossible. I understand what you're saying, but can you make this possible at the same time you're giving the protection to the individual who may be wrongly accused of doing something? You're saying that if you see someone chopping a door down or beating somebody up, they should be turfed out. That's what we're saying about the schools. That's what we're saying about the streets. Maybe our society's become too soft. Maybe we're letting people beat each other up. You get into that problem.

**Mr Kenneth Brown:** I think it's good that immediate evictions aren't possible, but we're asking for the flexibility to have an eviction procedure or process that is effective at protecting people.

**Mr Tilson:** Have you got one in mind?

**The Chair:** Thank you. Maybe someone else can ask that question.

**Mr Stephen Owens (Scarborough Centre):** Along the same line, with respect to abbreviated eviction, my question is particularly about those who are in care homes and act out as part of their illness. Why should they be penalized by being evicted, particularly a fast-track eviction process, if it's simply a manifestation of their illness that's causing them to act inappropriately?

**Mr Thomas:** If they were in individual dwellings, I don't see why they should be evicted, but when it endangers the safety of the people living with them, most definitely. It can be very frightening to have somebody

go berserk on you. There is the Mental Health Act, which can take them away for 72 hours, and the police may take them away for an evening or whatever, but if they can't be taken from the premises, they're right back at you again and probably more violent than previously.

**Mr Owens:** What happens now if a person is asked to leave or, as the gentleman mentioned a co-op, if a vote is taken and the person is asked to leave? How are you protecting yourselves? Have there been incidents where people have come back to the residence who have objected to the program?

**Mr Thomas:** Yes, most definitely.

**Mr Owens:** Do you see any kind of appeal process, as Mr Tilson asked? If there's a group dynamic that decides "This person here is the person we're going to pick on today," do you envision any appeal process of that fast-track eviction, or is it just "You're out," and you're out?

**Mr Thomas:** I don't think any of us are saying, "You're out," and you're out. What we're saying is that there must be some way to protect us immediately from the danger from the resident.

We use an arbitration system now where the person has a chance to state his case. The resolution board can then make recommendations to him to seek help for regulating his medications or whatever may be required. This same process could be put in a fast-track.

**Mr Owens:** Is there any ability for that person at this point to have representation at a meeting of that type?

**Mr Thomas:** Yes. They can have support from other residents or from support workers or whatever the case may be.

**Mr Owens:** A legal clinic, for instance?

**Mr Thomas:** Yes.

**Mr Gary Wilson:** You have identified one of the major issues here: how we balance the rights of the individual with group rights. First of all, how often does this arise, in your experience? How many cases like this are there where you need access to quick eviction?

**Mr Thomas:** To quick eviction? We don't have a quick eviction as such.

**Mr Gary Wilson:** No, but as you'd like to see it. Just from the cases you're describing, how often does this happen?

**Mr Thomas:** We had 45 cases before our resolution board last year, of which five lost their premises. I would say there were five occasions when fast-track eviction was required.

**Mr Gary Wilson:** But 45 incidents arose?

**Mr Thomas:** Yes.

**Mr Bernard Grandmaitre (Ottawa East):** What you're really looking for is an exemption to Bill 120. You're telling us that the process that's in place now in your different homes is working; you're satisfied. You would like Bill 120 to reflect the process that's in place now for your homes.

**Mr Thomas:** I don't see it as an exemption. There are areas of Bill 120 that we think do apply to us, do apply

to the residents of our accommodation. We do feel an amendment must be put in. If it's an exemption, fine, but there has to be some method of dealing with shared accommodation specifically.

**Mr Grandmaître:** You talked about the arbitration committee you have in place. How does this work?

**Mr Mauchan:** Our arbitration committee just involves residents and volunteers. If a certain person is being brought in front of arbitration, they are informed. When they come, they state their side of the case, and the arbitration will make a decision. If the resident doesn't like the decision, they have an appeal process to a different committee. They can also bring in who they want for the arbitration committee; other people will come from, say, different housing groups. And it works.

**Mr Grandmaître:** You're satisfied that it's working?

**Mr Mauchan:** Yes. In our building it does work. It works very well and very seldom is it appealed.

**Mr Grandmaître:** If Bill 120 is accepted as is, what will be the results? How will it affect your residents?

**Mr Mauchan:** I can see the arbitration committee going right out the window, because then you're dealing directly through the courts so there's no point in having an arbitration committee. Then again you get back into the time frame of, instead of a decision being made within, say, seven days, two months or six months. The person who's in that, if it's a violent situation, is living in fear during all that time.

**Mr Daigeler:** I really appreciate your presentation, especially the real-life situations you're describing. This is not theory; this is the practice. One thing, though, that really puzzles me is that we've had quite a few community legal clinics come before the committee and they were some of the strongest proponents not to make any changes whatsoever. I would assume that traditionally the community legal clinics are the legal source you are relying on. Would you have any explanation of why there seems to be such a difference in position between you, who are in the situation, and the legal help and advisers from the community legal system?

**Mr Thomas:** Yes. The legal clinics' main concern, in our area at least—I can't speak for all of them—is the garbage bag evictions, generally from rooming-houses and boarding-houses where there is no arbitration or resolution or whatever it may be called. There is a landlord who says, for whatever reason, "You're out," and you're out. Although they have identified the non-profit sector as being a problem, I can only recall one case that ever went to court where anybody confronted us with this problem of eviction. That case was won by us, making our licensing agreement a legal document. The community legal people are dealing primarily with rooming-houses. As I say, we haven't had any dealing with them whatsoever, other than one occasion. This seems to be generally the case.

**The Chair:** Thank you. You've been helpful.

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#### COMMUNITY SUPPORT AND RESEARCH UNIT

**Dr Gina Fisher:** My name is Gina Fisher and I work in the Community Support and Research Unit. My

coworker here, Carol Zoulalian, also works in that unit. We happen to be a hospital-based unit very much involved in housing the seriously mentally ill, and very much involved as well in providing support in coordinating a number of housing projects.

Bill 120, as our unit sees it, is a very positive thing that we are on the whole very supportive of. Guaranteeing that all tenants have a basic set of fundamental rights is something we feel very strongly for, but we'd also like to maintain that a fast-track process or mechanism, as has been spoken about earlier today, is very important to the welfare of our consumer-survivors of mental health services.

As housing providers, we feel strongly about the need to uphold the rights and safety and enjoyment of the premises by all tenants. Therefore a fast-track mechanism, as you've heard about today, however that is construed, is of utmost importance to us. In particular, the implication of mental health reform is that many more mental health consumers will be in the community, and as a consequence a fast-track mechanism is that much more important.

**Ms Carol Zoulalian:** Consistent with mental health reform, they're talking about the downscaling of psychiatric beds in all the hospitals. We're going to be housing people who are identified as long-term chronic mentally ill. These individuals have minimal daily living skills, or they've lost the daily living skills they once had from being in hospital for so long or as a result of their mental illness; it's hard for them to live in a community without supports, so they fall under care beds or care services, that kind of housing.

Although we strongly support the Landlord and Tenant Act because it protects our tenants' rights, as Gina said, we're recommending that a fast-track process or some kind of mechanism be incorporated which will balance the difference between the rights of the community, of the many in housing, versus the rights of one.

Our experience is particularly with our cooperatives. Our shared accommodations illustrate this recommendation we're proposing. Although we operate housing facilities for the seriously mentally ill, the behaviours we experience are not exclusive to this group, as you've probably heard. They could occur in any shared living accommodation.

Some examples we've experienced: individuals brandishing a knife against others, but they haven't uttered any threats so the police are not able to remove such a person from the premises and the landlord's not really able to act in any manner which will support the rights and safety of others. Another example is when people are afraid to leave their rooms because of a co-tenant's visitors who come in, and neither the landlord or police at this point can do anything to ensure the safety of others.

These behaviours are negative ones, but they illustrate the difficulty experienced without a fast-track mechanism put in place in the Landlord and Tenant Act supporting the safety of others.

With the mental health reform, far more chronic people



are going to be presented into the community. Without a fast-track process, the safety of others will continue to be in conflict with the safety of one. We're basically asking for some kind of mechanism to be incorporated into Bill 120. We don't really have any answers about what.

With Houselink's presentation before us, you asked the questions about what kind of process. All the tenants in a cooperative shared accommodation decide whether they want someone to move out, but when it comes right down to it, they have to write letters to the landlord requesting and go under a form 5, I think it is, where it's an anti-social behaviour. That takes a long time.

One person in particular has lived with us for two years. People are in fear whenever he does show up again, but he pays his rent and the landlord can't do anything to evict him. This form 5 anti-social thing has been going on, but when he stays away for a month but continues to pay his rent, he goes back to square one again. Whenever he does come and stay, people are very scared and very threatened and they'd like him out.

But there's also the part that you have a population that's vulnerable and doesn't want to put other people out, because they have a history of being put out themselves at one point or another because of their behaviour. Aside from being scared, they're also very understanding and tolerant of others. At times they'll be in a position where they'll be uncomfortable for a long time until they decide to act, and when they do act, it takes two years or more for someone to be asked to leave under form 5. That's the problem we're seeing.

**Mr Gary Wilson:** Thanks very much for coming before us. Especially following on the heels of previous presentations this morning, it gives us an opportunity to discuss this issue more fully. How many instances like this do you see in the homes you're responsible for?

**Ms Zoulalian:** We have quite a few homes. They don't just occur in shared accommodations. We have our independent units, but where the people have lived in the hospital for two years out of the last five, inpatient hospital stays for that long, they have a common area they share with people. I'm just trying to think of the numbers.

**Mr Gary Wilson:** The brandishing of a knife you mentioned—

**Ms Zoulalian:** The second one has occurred with different people; that one is a common one. But the first one with the brandishing of a knife, that occurred within the last year. The one where individuals are scared to come out of their rooms, that's occurred maybe five or six times within the last year in the shared accommodation.

**Mr Gary Wilson:** How big was the unit or facility where it occurred? How many people were sharing accommodation?

**Ms Zoulalian:** The one with the knife affected 10 people; there are 10 totally, so nine people. The one with the people afraid to leave their rooms, or their independent apartments at times—that happens—affects a larger number of people. It's hard to say: maybe 25, 30 overall in general.

**Dr Fisher:** Also, as Carol has mentioned, it happens reasonably frequently, but even if it doesn't happen every day, it certainly is serious enough and troublesome enough and frightening enough for the majority of people for it to hamper their lifestyle and quality of life.

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**Mr Gary Wilson:** That's not an issue confined just to group homes in your circumstances; that's pretty widespread throughout our society. This is an issue we're also grappling with. What we're trying to do in the Residents' Rights Act is to extend tenants' rights to people in all conditions or circumstances of accommodation. You mentioned that even the tenants themselves have that feeling of knowing what it means to be evicted arbitrarily and they're reluctant to impose that on anyone else. That shows there is strong support for it. But when people are evicted, which is another thing we have to grapple with, where do they go?

**Ms Zoulalian:** Just before that question, we're not asking for a fast-track eviction but for a fast-track process. The process itself takes so long, from two months to two years. We're asking that there's something incorporated that speeds that process up, where people can get in front of a judge or the courts before that two-year period—something happening. We're not asking for fast-track eviction.

**Mr Gary Wilson:** That's something that might be extended to all settings and would work for any eviction.

**Ms Zoulalian:** Specifically care facilities, or care beds that are identified with supports. That's where our concern lies.

**Mr Gary Wilson:** I'd like to turn to the issue of where they go. Is there some way of bringing in the community supports that long-term care reform is considering and trying to promote, so that there is help available in the community that can be called in—you mentioned the police, for instance, although apparently in the knife case there was a technicality that prevented their responding to that—so that you could call somebody else to help the person through this problem, which probably arises out of some personal element rather than their wanting to harm anybody or hurt somebody?

**Ms Zoulalian:** We have the Mental Health Act and it's hard to bring someone in the hospital under the Mental Health Act as well. It's especially true in instances where they're not well and threatening and disruptive to others and the front-line staff might try to bring them in or get a psychiatrist to see them or something, but when they are seen by the psychiatrist, they might be able to hold it together enough for an hour or 20 minutes or however long it takes that they're not seen as a threat at that point. Or they leave the premises and they stay away for a few days and go to a crisis bed somewhere in the community. They end up coming back and they're still the same. They know enough to stay away for a little bit.

It fits with the Landlord and Tenant Act. When they stop that behaviour, it's hard to act right away under that or the Mental Health Act. As Houselink said, we provide the supports and we will be there, but it's hard to get



them into hospital. And when they do get into hospital, it's only a 72-hour stay and then they get reassessed. If they're fine after that, they go back. They might not be well, but they're not sick enough to be in hospital and they're not sick enough to be evicted—not even evicted, but to take that much responsibility for their actions.

**Mr Gary Wilson:** Your experience is that they do remain a continuing threat? You don't see any difference in their behaviour? I guess you see some, but—

**Ms Zoulalian:** The staff comes in and we're there for a short time. People who are there live with them for 24 hours a day, more or less. They see them all the time, at night when the problems come out, when the staff leave.

**Mr Gary Wilson:** So there's no staff there for a certain period of time?

**Ms Zoulalian:** They're independent in the sense that there's staff support: Staff are there two times a week from another agency and we from CSRU visit them once a week in the housing we support. Each individual also has their own case manager and their own therapist who they attend and see, and they may or not visit the home.

**Dr Fisher:** It's complicated by the fact that there are numerous people in one particular setting, and if those people are being interfered with by one person—it doesn't happen all the time, by any means, and certainly housing agencies working in the mental health field, and we do, try very hard to work with clients or consumers to work through their problems. It's not wanting to use very quickly any kind of legislation or any kind of mental health reform or the Landlord and Tenant Act. There isn't that attitude.

From my experience with my coworkers on the unit and also my experience with other housing providers in the community, our colleagues in the community, my impression is that they don't jump the gun, so to speak. They work through a lot of issues. We're here as mental health providers and we have a commitment to our client group, our patient population. But we do need to be able to protect—as Carol has mentioned, we have to balance the community and the individual concerns. That's a fine balance.

**Mr Daigeler:** You describe some real-life situations. Have there been cases you're aware of where other tenants have moved out because they felt unsafe?

**Ms Zoulalian:** Yes, that's happened. Tenants have left their housing and have gone into market rental units. The housing we provide are subsidized units; we work with a non-profit housing agency. They're on social assistance, so when tenants leave and go into market rental, what happens is that they pay more than half their monthly income for rent because they can't tolerate the situation any more where they were living.

**Mr Daigeler:** Even under the current—

**Ms Zoulalian:** Under the current, yes, because the process takes so long.

**Mr Daigeler:** One could probably expect that under Bill 120, it would even take longer.

**Ms Zoulalian:** That's what it seems to be, yes. That's what it seems to allude to.

**Mr Daigeler:** How common an occurrence would you say this is? Is this an exception?

**Ms Zoulalian:** It's not an exception. It's not a common thing, but it occurs enough that it's a concern. People do end up leaving their support and their housing that's subsidized and affordable and decent to go into market rental units where they're not protected as much, where landlords are not non-profit in that respect and might not follow all the rules, and they might end up being evicted without any grounds and things like that.

The landlords we have are compassionate landlords in that if people do become ill for any reason their units are maintained and, after a certain amount of time, where their monthly cheque goes down because they're in hospital, their rent will go down accordingly. As long as they pay their rent, they maintain that unit. People aren't asked to leave right away. We do try and keep people where they are and support them in that way. But when other people are jeopardized and it's an ongoing thing, it's very difficult to support a person living there from the tenants' as well as from our perspective. We're trying to help the other tenants too.

**Mr Daigeler:** I find that a very important observation, that in your experience this is an occurrence which is not rare; it's not everyday, but nevertheless it's something you are worried about.

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**Mr Grandmaître:** More and more care providers are appearing before this committee and highlighting the health and the care issues, yet when you look at Bill 120 it's very misleading. It's An Act to amend certain statutes concerning residential property, but actually it's an omnibus bill and amends five different acts.

You referred to the mental health reform, the care you have to provide at the same time as protecting these people, yet the Ministry of Health has failed to appear before this committee to let us know what its intentions are in terms of providing you people with assistance. Well, I'll skip that part. I don't want to raise—

**Mr Gordon Mills (Durham East):** It was just the same when you were running things.

**Mr Grandmaître:** It's very misleading. The Ministry of Health has to be much more open with such groups as yours and let us know what the Mental Health Act reforms will be and how they can provide you with the proper tools to operate your services. We think it's very unfair. Have you been consulted by the Ministry of Health on Bill 120?

**Ms Zoulalian:** We work for the Ministry of Health but not the actual ministry itself.

**Dr Fisher:** No comment.

*Laughter.*

**Mr Grandmaître:** I want to know about your input. It must be a great big joke. Everybody's laughing about it except the members of the government.

**Mr Mammoliti:** Mr Chair, I have a point of order: I didn't see anybody on this side laughing. I think the laughter came from Mr Grandmaître's own side, just for the record.



**Mr Grandmaitre:** Then you need plastic surgery if you don't want to smile. Can you answer my question?

**The Chair:** Mr Tilson.

**Mr Grandmaitre:** I didn't get an answer, Mr Chair.

**Mr Mammoliti:** That's because you were too busy laughing.

**Mr Grandmaitre:** No, no. You were interrupting.

**The Chair:** Order. We've behaved fairly well so far this morning. Let's leave it that way.

**Mr Tilson:** The issues you've raised are similar to the last delegation's; I saw you were listening to them. The same criticism that comes from community homes or residents you assist comes from landlords and tenants with respect to the Landlord and Tenant Act: If you get a violent person or someone who is performing criminal activity, what are you going to do? You're talking about protection to property, you're talking about safety of other tenants, and of course it's exaggerated with the community home. I guess I'm asking the same question you've already answered: that you don't really have a solution, other than somehow shortening up the process.

I've been reading with interest the little pamphlet you've put forward that explains your organization, and I appreciate the work that is done by, presumably, a large number of other people. Have there been any papers written or people who have put their thoughts to this issue, the exceptional process you would like for the type of home you assist?

**Dr Fisher:** I'm not aware of any existing paper. Perhaps out of these hearings there will be papers generated. Carol, are you aware of any to deal with the Landlord and Tenant Act, the complexity of it?

**Ms Zoulalian:** Not that I'm aware of, but I do understand that other agencies—and some of them have probably come before you already—have made suggestions which might appear as fast-track eviction, getting confused within the process and trying to shorten the process.

**Mr Tilson:** I know about fast-track eviction. That expression is used constantly.

**Ms Zoulalian:** I guess what we're looking at is more the process. The only thing we know, any research we've done, is that people feel much more secure under the Landlord and Tenant Act, except when it comes into situations like this. That's what we support too, to go under the Landlord and Tenant Act, give people more rights, have them more protected.

**Mr Tilson:** Give the group more rights as opposed to the individual.

**Ms Zoulalian:** That's the thing. The con to it is that the individual usually ends up having more rights than the group does, just with the process and the length of time. A lot of them feel: "What's the point? We've written the landlord many letters to do this form 5. They've come to us, they've liaised with us and told us what we need to do to get this person out. We've done it. For some reason it goes back to square one, we have to do it again, and we have to keep doing it." It takes for ever, and they don't see any results.

This is a population that also doesn't work very well in abstract, or for any group, for that matter: When the results aren't quick and it takes a year or two, it's very frustrating and they don't have any more faith in it.

This might address some of the issues. Housing in mental health has moved from where it used to be. Housing was like group homes, a lot of them, where people would move in for a year or two, they'd have the program, they'd have set goals, and after that two-year period they'd move out. A lot of the group homes and a lot of the programs are changing to what's called variable support and indefinite length of stay. That means the person can move in, the support is according to the person's need, and they can stay indefinitely as long as they're not breaking any of the rules. All the housing is moving more under the principle of the Landlord and Tenant Act instead of, at times, actual practice. A lot of these are shared accommodation still and the housing structure is still the same, a group home in the sense of sharing the common space, but the program model has changed.

What I see happening with Bill 20 that we're looking at is that with putting a limit of six months and the word "rehabilitation" in the same phrase, it's very hard. A lot of the housing has moved away from putting time lines on it.

**Mr Tilson:** The main criticism I have with Bill 120 is that we're confusing health, mental and physical, with residential issues. We're trying to give people more rights, and yet, whether you're talking senior residential homes or—we had a written presentation yesterday about people trying to recover from alcohol and drug addiction problems where you're not supposed to have it in the place, yet some will go and have it. With Bill 120 you're not going to be able to kick them out, because Bill 120 says you can't do that.

**Mr Mammoliti:** It doesn't say that, David. Don't mislead everybody.

**Mr Tilson:** It does say that, my friend. That's the big problem with these delegations. They don't understand what you're trying to do. You're creating a nightmare for these people.

**Mr Mammoliti:** Come off it, David. It doesn't say that at all.

**The Chair:** Would you like to withdraw the offensive language, Mr Mammoliti?

**Mr Mammoliti:** I don't think it was offensive at all, Mr Chair.

**The Chair:** Well, it's unparliamentary.

**Mr Mammoliti:** What did I say that's unparliamentary?

**The Chair:** You said "mislead." Would you withdraw that remark?

**Mr Mammoliti:** Because I'd like to hear a response from the deputants, I will withdraw the comments.

**The Chair:** Thank you.

**Mr Tilson:** What I was getting to was that your organization is similar to other organizations. The fear is that you're trying to perform a service, and many of the

organizations that have come forward—and I don't mean to be disrespectful, but organizations zeroing in on particular health problems—are saying to us that they are going to have difficulties operating with Bill 120 unless there are exceptions made to their particular situation. Is that what you're saying?

**Ms Zoulalian:** With a cooperative living situation specifically, yes, that would make it difficult. The housing provided in mental health is moving where, if people move in with supports and at any one time they decide to drop their supports, that's fine, as long as they don't break any of the Landlord and Tenant provisions, and then they're focused straight under that act. But in shared accommodation they're affecting the lives of other directly instead of being in their own independent unit. Under Bill 120, it seems, we are going to have difficulty asking those people to leave.

1200

**Mr Tilson:** What will happen?

**Ms Zoulalian:** What's happening now, the length of time the process takes—as you're making amendments to the Landlord and Tenant Act we're just wondering if you can make another amendment that might speed up the process, that's all. With Bill 120 it just seems it might take more time. Maybe we're misinterpreting it, as has been mentioned.

**Mr Tilson:** No, you're not misinterpreting it at all.

**Dr Fisher:** Our understanding is that it's becoming more inclusive and becoming broader to include care service beds, which would include our shared accommodation. Our landlord, the Supportive Housing Coalition, operates in the spirit of the Landlord and Tenant Act as it is now, in terms of our shared accommodation, and there are problems.

The examples Carol gave you are many of the problems we do have, and we see those problems becoming more entrenched with Bill 120 and that our landlord, the Supportive Housing Coalition, will become even less—and that's not to pick on the Supportive Housing Coalition. They're doing their job and they do it well, but they will become even less able and willing to help in terms of getting out very destructive clients, the odd consumer who happens to be destroying property or making it difficult for other people to live in a satisfactory condition.

Both of us, and not just both of us but the rest of our colleagues on the unit, are supportive of Bill 120, but we feel we need something like other agencies have been talking about: an addition, an addendum to it.

**Ms Zoulalian:** What might happen in other shared accommodations in other agencies is that eventually it might become like a creaming. You'd get the people who are less difficult, less chronic, into this housing, whereas the other people will remain in hospital and won't be given a chance to live in the community.

**The Chair:** Thank you very much for appearing before the committee today.

**Mr Gary Wilson:** Before we adjourn, I'd like to make a brief clarification about one of the deputants this morning. The representatives of the fire marshal's office

asked that a clarification to the record be made to show that they were here and speaking independently of any other delegation that appeared this morning. Apparently, in a conversation with one of the committee members after their presentation, there was some confusion about under whose auspices they were appearing. They were entirely independent of any other delegation.

**The Chair:** I asked the question because I was somewhat confused about who exactly they were representing when they were here. I think Hansard will show that they were speaking on behalf of the Ministry of the Solicitor General, the fire marshal's office. That's fairly clear. What is not exactly clear is how a ministry representation ended up being tagged in with another group. The Chair found that a little disconcerting and a little unusual in the way procedure works. Technically, I guess there's nothing wrong with it. It's just unusual.

**Mr Gary Wilson:** It might be unusual. You're the Chair and you might know how these things happen.

**The Chair:** Generally speaking, a ministry which wished to make a presentation would ask to be put on the list. I have never seen a ministry request to be on a list that didn't actually get on a list. That's what surprised me.

I would also note that some members over a period of time have requested that the Minister of Health show some interest in making a similar presentation, as have some members indicated through the Chair that they're interested in having the Ministry of Community and Social Services do the same thing. That's what confused the Chair.

**Mr Gary Wilson:** To be fair, the Ministry of Health has already been raised in these hearings. Right from the beginning, when we had our technical briefing from the ministry staff, it was stated that the Ministry of Health, along with several other ministries, was involved in the interministerial discussion of the Lightman report, upon which this is based.

**The Chair:** Did that not include the Solicitor General?

**Mr Gary Wilson:** I can't recall, but I think it did. I'll check that list to see exactly what was said.

**The Chair:** I think you could see why the Chair is somewhat confused.

**Mr Mammoliti:** I move to adjourn.

**Mr Tilson:** My hand was up before his motion, Mr Chair. Hopefully, you will recognize me.

I have a question to the parliamentary assistant along this line. We have now heard this morning an official presentation from the office of the Solicitor General. To be fair, so that the committee can get a rounded discussion prior to clause-by-clause discussion, I hope the committee does hear from not only the Ministry of Health but the Ministry of Community and Social Services specifically. Almost every delegation that has come forward that I have heard has raised the Ministry of Health, yet we have yet to hear a presentation. I hope the parliamentary assistant will consider, now that he's raised the confirmation of the Solicitor General making its presentation this morning, that a more rounded presenta-



tion would also hear a presentation from the Ministry of Health.

**Mr Gary Wilson:** That's not really what I raised. I simply said the delegation was speaking independently of any other delegation this morning. That's the only point I wanted to make.

**The Chair:** Mr Mammoliti has moved adjournment. I think that's appropriate at this time.

*The committee recessed from 1206 to 1404.*

ALCOHOL AND DRUG RECOVERY  
ASSOCIATION OF ONTARIO

**The Chair:** Our first presentation this afternoon will come from the Alcohol and Drug Recovery Association of Ontario. Welcome.

**Mr Jeff Wilbee:** My name is Jeff Wilbee, the executive director of the association. My colleagues here today include Mrs Beverly Thomson, the executive director of the Westover Treatment Centre in Thamesville, near Chatham, and Mr Bernie Boyle, the director of James Street Recovery Program in Ottawa. What we'd like to do is present a very brief brief. I'll do that and then ask my colleagues to make further comments. We felt we'd like to leave most of the time for questions and maybe more of a free-flowing conversation.

Let me start off by saying, on behalf of the members of the Alcohol and Drug Recovery Association, that we wish to thank the committee for the opportunity to make this presentation. Our association, which is celebrating 25 years of serving Ontario citizens, represents approximately 160 members, which includes 85 non-profit addiction recovery facilities and residential programs.

Our programs really cover the continuum of care. They go from detoxification units, to hospital-based and community-based, short- and long-term treatment programs and rehabilitative recovery homes, whose length of stay can be up to three years in certain areas of the province. We serve people all the way from those who have very strong social and employment supports to those who are homeless with no supports, either socially or economically.

We strongly support the residents' rights under the Landlord and Tenant Act for all of those in permanent accommodation. We will keep our comments under the bill to part I, dealing with the Landlord and Tenant Act. What we want to make perfectly clear, and really our reason for being here today, is that the clients in our residential programs are in transition. Primarily, the accommodation that is provided is there to support the treatment, the rehabilitative programming. The recovery program is not just an add-on to accommodation; I want to make that point. Our non-profit boards of directors are not really landlords, any more than hospitals would be landlords in terms of providing long-term rehabilitative care in hospitals.

We also want to make the point that as a society, as we're protecting one's individual rights it should not be at the expense of or to the detriment of others. We do not, for example, allow one's freedom of speech to falsely yell "Fire" in a crowded auditorium, because it may endanger the other people. Similarly, it is vitally

important in the addiction recovery programs that the environment be a fully sober and safe one, and we'll make further comment on that later on.

For us to allow a minority, or even one, of the residents to endanger the recovery of the other residents defeats the purpose of these programs the taxpayers are paying for. For example, if a client in a recovery home governed under the Landlord and Tenant Act and who was therefore a tenant was allowed to consume alcohol in his or her room, it would take away from the safety, security and enjoyment of the other residents in the shared accommodations. In fact, we would say it could be described as similar to someone smoking in a hospital room where there was oxygen being administered to someone who was there with a lung disease because of smoking. To some, that may seem rather extreme, but for those of us working on the front line in the addictions field, we're very much aware that this is a very complex and fatal disease.

We therefore recommend that the residential addiction programs be fully exempt from the act. We appreciate that Bill 120 does partially exempt rehabilitative and therapeutic residential programs under clause 1(3)(i.1). However, the present wording poses some very serious problems for our programs.

That section states "the building or structure in which the accommodation is located is not the principal residence of the majority of the occupants." Many of our programs serve those without strong social and economic supports, and therefore the majority of the clients have no other accommodations. The hostel or recovery home indeed is temporary, transitional, but it also is for that time period the only principal residence for our clients. According to the proposed wording in the bill, these facilities then would not be exempt. This would make the good, orderly running of a successful therapeutic environment almost impossible.

If our programs cannot be fully exempt, we recommend that the wording in this section be changed from "principal residence" to something like "permanent residence."

Also under the same section, the present wording could possibly affect some of our program clients who receive funds under the General Welfare Assistance Act or the Family Benefits Act, where they must indicate their principal residence. If the majority of clients listed the recovery centre as their principal or permanent residence to receive these benefits to allow them to stay in the program, it could be challenged that the program does not meet the exemption criteria under the act. Therefore, if the committee deems that there not be a change in the wording, we recommend that an additional clause be added that says, in essence, that the word "principal" has no relevance to any funding provisions under the General Welfare Assistance Act or Family Benefits Act or any regulations under those acts.

1410

The other area of great concern to us is under the same section, subclause (iii), pertaining to the provision of average length of stay for therapeutic and rehabilitative programming. It reads "the average length of the occu-

pancy...does not exceed six months or such lesser time period as the regulations made under this act prescribe." This wording would exempt our members who operate more short-term treatment centres—in fact, I'd even say the majority of them—however, it would not exempt many of our more long-term recovery programs. As stated earlier, we have programs designed for more than a one-year stay, for the very high-risk relapse clients, again those without the strong supports required to go back into society and live a sober and drug-free life. Generally speaking, the longer term is offered only to those individuals who have yet to establish themselves in independent living lifestyles. Our programs, in addition to addressing their substance abuse, also help prepare them for full integration back into the community.

Therefore, we recommend that the length of time under the exemption there be changed from six months to something more like 18 months. Although this does not fully cover the longest residency stays of our members—as I said, we have members stay as long as three years—we felt that might be a reasonable request.

To restate our case, we feel that addiction recovery treatment residential programs should be fully exempt from the Landlord and Tenant Act. If that is not deemed appropriate by the committee, we strongly recommend that the exemption clause be changed from six months to 18 months and that the term "principal residence" be changed to "permanent residence."

It's difficult for us in the field sometimes to relate what happens, but the next paragraph might describe a little bit. Our clients share washrooms and kitchen and dining facilities. A client's attitude and behaviour can be not only disruptive; it can also put the other residents in risk of relapsing back to drug and alcohol abuse.

It has been suggested to us that if our programs were under the Landlord and Tenant Act, if there were some disruption the police could be called and a disruptive client could be removed. But in our daily experience, it is just not that simple. Inappropriate behaviour that is detrimental to other clients may not necessarily be deemed by the police to be criminal activity or that the other clients are in immediate risk of bodily harm. The risk is probably something far more subtle than that, the kind of subtleness we work with on a daily basis, that can make the difference between a client being successful or unsuccessful in maintaining a sober lifestyle.

Although we're asking for exemption under the Landlord and Tenant Act, we strongly support the need for all residents' rights, and that includes a disruptive client's rights: We're very much aware that there must be due process in discharging such clients from a program. But we would contend that this be handled under the regulations of the funding ministries, the assurance that strict standards involving clients' rights, including involuntary discharge, be handled in that way.

Thank you for the opportunity to present. We hope our comments may be of some benefit.

**Mr Bernie Boyle:** A very brief follow-up in terms of the length-of-occupancy issue. I'm aware, from many consultations I've had with the programs that operate out of the north, that there is a consideration they face

because of their geography. They have few treatment facilities in their communities, and people who go for assistance often have to leave their community and travel a great distance. Usually, they have to stay for an extended period, because this is not only where they would get their substance abuse issue addressed but also where they would be given the assistance to develop the life skills to return to their community and to operate in an independent living arrangement in their community. So in many situations, we see northern programs operating with a much longer time frame than some of the programs in the southern and Metro areas. In some way this six-month limitation presents an extra difficulty to our northern facilities and for the people they serve.

**Mrs Beverly Thomson:** I think it's worthy of another mention that what is a safe and sober environment for some people is not necessarily a safe and sober environment for our clients. In early recovery, it's really critical that they're in an environment that's alcohol-free, drug-free. To not take that into consideration is really setting them up for relapse, and we think that should be considered very carefully.

**Mr Wilbee:** That concludes it. We could try to answer questions; that might be of benefit.

**Mr Grandmaître:** A very good presentation. We've heard similar deputations in the last three weeks, especially from homes such as yours.

Let's talk about the length of stay. What would be the average length of stay in your homes?

**Mr Boyle:** In Ottawa we operate what is a long-term facility for street youth. It averages between three and four months for these people.

**Mr Grandmaître:** What about the rest of Ontario? You mentioned northern Ontario.

**Mr Boyle:** They are required to offer a much longer—I've worked with some of the facilities in the north, and a year to 14 months is not uncommon for people, especially those people who are not in their own community getting help, those who have travelled.

**Mr Wilbee:** The six-month exemption as it is now would cover the majority of our programming, that's clear, but we're concerned about those who are running longer programs. Those who are addicted may have other kinds of difficulties such as mental illness, dual diagnosis—many of our people, particularly females, come with other kinds of abuse problems and what have you—so longer programs are needed. We were talking at lunch, and Bernie was saying that many of their clients are young people who have not yet learned the appropriate way to act if they were out in their own accommodation.

We want to make clear that the bill as it is now worded would cover the majority of the programs we represent, but there are others it would not, and that's our concern.

**Mrs Thomson:** In some of the places they're being taught the life skills that prepare them to go into some of these other places.

**Mr Grandmaître:** Bill 120 might satisfy the operations of Ottawa, let's say, but in northern Ontario it wouldn't be complete.



**Mrs Thomson:** There are some longer terms in these areas and southwestern Ontario as well.

**Mr Grandmaître:** You would like an amendment that would exempt the kind of homes you're operating. How do you handle disruptive clients at present?

**Mr Boyle:** In our program, we have three rules. We're a coed facility, so we do not condone sexual activity, drugs or violence. Because we're dealing with people who have come from the street, violence has been a part of most of their lives, unfortunately, since infancy. Violence has to be more than just an act you could call the police in on. Even the threat of violence to a young woman who is a survivor of years of abuse is almost as dangerous and upsetting to her as the behaviour. We have to move in and ask someone to separate himself or herself from the place for a very short period until they can calm down, and then we assess the situation and assess the danger. It's a very complex issue because of the history of the people we are working with and their vulnerability to this.

1420

**Mr Grandmaître:** You were told that if you do come across disruptive clients you should call the police. Have you ever had the occasion to call in the police?

**Mr Boyle:** Oh, yes.

**Mr Grandmaître:** What was their response?

**Mr Boyle:** It's usually slow. It's good for the police, but it's slow for us. We had a situation recently where the police were there within half an hour, which according to their workloads and everything is fair for them, but our situation was completely finished, and there had been an assault in that time. We have 911 service in Ottawa.

**Mr Grandmaître:** Calling the police is not satisfactory.

**Mr Boyle:** Not in all situations, it's not going to be.

**Mr Tilson:** I listened to you speak and other delegations similar to yours make presentations. We had a written presentation from the Society of St Vincent de Paul, which I assume is connected to you in some way, is perhaps one of your members, I don't know.

Listening to your presentation and others, I don't look at the people you represent as tenants; I look at them as—well, I guess you can use the word "residents." You're providing not just accommodation; you're providing a service, in this case trying to solve or assist in dealing with alcohol and drug problems.

I'm not a regular member of this committee, but since coming on it the theme I have been concerned with is whether the Ministry of Housing, the sponsor of this legislation, should be involved at all. For example, the representative from St Vincent de Paul wrote, "In the long run, we believe these homes will be unable to function as supportive homes for recovery from addiction unless the ability to discharge someone for violating the drug-use policy remains intact." As I understand it, now you have rights, and if this bill passes, all these individuals who are receiving a service will become tenants, with all the rights in Landlord and Tenant. Organizations like St Vincent de Paul and I believe you are saying, "We're going to have a lot of problems providing our

service." That's what you're saying.

**Mr Wilbee:** That's in essence what we're saying.

**Mr Tilson:** It gets back to the question to Mr Wilson that we had earlier this morning, and I gather last week when I wasn't here, that hopefully he will go back to whomever he speaks to and encourage the Ministry of Health to come to this committee and make a presentation to deal with the issue of health service. You get government funding?

**Mr Wilbee:** Yes.

**Mr Tilson:** Where does that come from?

**Mr Wilbee:** The Ministry of Health, the Ministry of Community and Social Services; there are those who have money from Correctional Services. There has from time to time been Housing money under special projects. It comes from municipalities for those running more the hostel type of facility; certainly boards. And there's the United Way; in fact, it's still out there doing fund-raising, the dances and what have you.

**Mr Tilson:** It's getting tougher and tougher.

There's a whole pile of signatures on this brief report from the Society of St Vincent de Paul. If their allegation is true, are your concerns being made known by you or others like you to the Ministry of Health? These people say, "We're not going to be able to run these places."

**Mr Wilbee:** I've certainly had conversation with those in the Ministry of Community and Social Services, and they have similar concerns and are pleased we're here making this presentation.

**Mr Tilson:** My same question goes to Mr Wilson, that hopefully representatives from that ministry will come. We've got a serious problem. I know this has been going on for weeks, but in the two days I've been here I've heard a number of delegations similar to yours coming forward with Health problems and Community Services problems, yet those ministries are not coming to this committee. I don't see how we can finalize our deliberations without that, but hopefully you'll take that under consideration.

**Mr Gary Wilson:** You certainly have focused on some of the key issues we've been discussing. As Mr Tilson says, you only have to sit on this committee a couple of days to know that these are some of the issues we're grappling with. However, if you've been here for the duration, from the beginning, you would have heard—Mr Tilson might have heard—some of what we're dealing with in context.

For instance, as you probably know, this springs from the Lightman commission. There was an interministerial committee that considered the results of the Lightman commission, which of course itself involved a lot of consultation. We're quite confident that the bill reflects the Ministry of Housing's responsibility. Even if Mr Tilson doesn't see the residents as tenants, they themselves do, and in fact we think they should be treated as tenants where it's appropriate. You've already specified where the bill allows the variation as far as treatment and rehabilitation homes go. The issue here is the fine-tuning.

**Mr Wilbee:** That's right, exactly.

**Mr Gary Wilson:** We really appreciate your support of it and your comments. One of the issues you raised, principal versus permanent housing, is something that is being considered and has been a long-standing issue that we're still considering.

There is this issue too of the safety of the tenants or residents in the group homes in particular and how they affect your program. I want to ask you to go back to this, to say how the Landlord and Tenant Act applying to the residents of your programs would affect what's happening now, which sounds to me is something you've got to deal with immediately. For instance, you just said that in the case in Ottawa, it took the police a half-hour to arrive. That's where, I take it, the Landlord and Tenant Act doesn't apply. I'm not sure why the Landlord and Tenant Act would affect that situation, necessarily.

**Mr Wilbee:** The concern we're bringing is that it comes down to timing. We've said very clearly that we think everybody's rights should be protected, including the one who's been disruptive. It's the length of time in terms of eviction, if you like, if one is treated as a tenant.

**Mr Gary Wilson:** But where the emergency arises, you're using that as an example, it seemed to me, that it's not appropriate to have Landlord and Tenant in that case, and I'm not sure why.

**Mr Wilbee:** We've used that as one example, but you'll recall that in the presentation we talked about the subtleties as well. It's sometimes very difficult for us in the field to explain what actually goes on in treatment. It's these subtleties Mr Boyle was talking about in terms of attitude. If someone's standing in a kitchen with a knife in their hand threatening somebody, that's very, very clear; but what is also of concern is that other very subtle kinds of behaviours and attitudes can really disrupt. We know from many, many years of working hands-on in these types of group homes that that itself can be detrimental to the other people who are trying to stay sober. It's more than just violent or threatening behaviour, it's more than just someone drinking in their room who could not be removed, that kind of thing. Those are extreme examples, but as counsellors and therapists and what have you, knowing from our many years of experience the subtleties, it works to have a good environment that works. That's our concern. It's very difficult for us to articulate that.

**Mr Gary Wilson:** Actually, you've done it very well. I can understand that, that as you work with that day in and day out you do become aware of it. But isn't that where that raises the question of rights most clearly? When it becomes subtle you have disagreement about just what the behaviour constitutes in terms of its intention, so perhaps it's much easier to make a mistake even though you are professionals in your field. You're going by your evaluation, but it could be that the person showing the behaviour might have a different view of it. At least Landlord and Tenant sets up a process where the individual has a chance to—

**Mr Wilbee:** There are processes already available, are there not, Bev, the appeal process?

**Ms Thomson:** In our particular facility we are funded by Health. When we discharge someone—not when the

program is complete, but if we find it necessary to discharge someone—we write them a letter which lets them know they have an opportunity to appeal this within so many days, and there are times when they do that. The appeal begins with me and the program director, but it goes on from there.

**Mr Gary Wilson:** What's the final appeal they would have?

**Ms Thomson:** It could go right to the Ministry of Health.

**Mr Gary Wilson:** How often does that happen?

**Ms Thomson:** Not very often.

**Mr Boyle:** I think there's the image that we discharge people and throw them out of our lovely facilities. In fact, when someone leaves a program before completing it, it is generally a mutual decision that they're not ready for the burden of trying to develop a new drug-free lifestyle. It's not surprising they don't appeal it, because they have decided they do not feel confident in their ability to do all the work that's required to develop this new lifestyle. They leave, not being cast out, but by mutual consent that right now it's not the time.

**The Chair:** Thank you very much for appearing today. We appreciate your presentation.

1430

**Mr Tilson:** Can I ask Mr Wilson if he has any idea whether the ministries of Health or Community and Social Services will be coming to the committee or can he indicate—hopefully, we don't have to have the formality of a motion—whether they will be responding to the letter that was written to them and will in due course be coming to this committee to make a presentation? Are you able to tell us that?

**Mr Gary Wilson:** As you know, a letter was written, and I think we'll wait to see what the response is. That was the feeling of the committee when that decision was made. The choice was there that we could decide what kind of participation we wanted from the ministry, and we decided to send a letter through the Chair asking them for their opinion.

**The Chair:** We should be clear that the context of the letter is that the Chair asked them for their views on the bill. He did not ask them in the letter to appear. That's slightly different from the question Mr Tilson asked.

**Mr Tilson:** I don't want to take the next presenter's time. I will stop, but I just make the comment that delegation after delegation is coming to us on Health matters, and it cries out for the ministry to come to this committee.

#### CANADIAN AFRICAN NEWCOMER AID CENTRE OF TORONTO

**Mr M.S. Mwarigha:** My name is M.S. Mwarigha. I'm from the Canadian African Newcomer Aid Centre of Toronto and I'm a housing coordinator there. I'm here to speak in support of what was previously proposed as Bill 90, particularly in respect to legalization of basement apartments.

CANACT is a community agency that provides settlement services to African refugees and to newcomers



to Toronto. In particular, we provide a housing help facility and information about affordable housing to new immigrants, refugees in particular.

To date, living in basement apartments has been illegal in most parts of Metro Toronto, which is our area of jurisdiction. At this point I should also make it clear that our advocacy on behalf of legalizing basement apartments should not be misinterpreted as advocating the end of other sources of social housing that have traditionally provided for new immigrants and groups in need of that type of housing. However, we are obliged by a number of circumstances to speak in favour of legalizing basement apartments.

First, the current stock of basement apartments, where many of our clients live, is substandard and not subject to all kinds of standardization to bring it up to the necessary level for comfortable living.

Second, those illegal circumstances also create a poor relationship between the landlord and the refugee that breeds insecurity and circumstances for all kinds of abuse and denial of rights. For instance, we had a client who couldn't receive mail in his basement apartment because the landlord was afraid it could become known that they had an illegal basement apartment.

Third, we know basement apartments constitute a de facto initial source of affordable housing for refugees and people of low income, and we feel no moral or socially undesirable circumstances to lead us to be against its legalization.

In brief, we advocate for legalizing of basement apartments based on a real experience of need and also a sense of social justice for people on the verge of homelessness.

On a general level, legalizing basement apartments in our view is a step towards more general inclusionary zoning. It allows for the less-endowed citizens to live in all areas of the city, or of the province, if you wish, instead of concentrating them in ghettoized areas. It is even good for suburban development because it helps keep families together in the same area by allowing for a granny flat or an apartment for youth who have just left home but would like to be within earshot of their parents, rather than having to commute across the city to look for apartments elsewhere.

Our deputation does not refer specifically to any clauses of the proposed Bill 120. Rather, it is to lend a voice of support to this committee, and also some assurance that we think it's a positive step.

**Mr Tilson:** Your comment about underprivileged people being allowed to live anywhere is an issue that obviously is under debate by many individuals who have worked hard and want to live in a particular area where there is single-family dwelling. They feel they have that right, if they've worked hard and earned the required money to pay for those things, and you may take issue with that.

The real issue I want you to comment on is that this province, in fact most political jurisdictions in the world, do some sort of planning. You plan for a certain number of children to go to particular schools. You know how

many people are going to be living in that area. You plan for sewage capacity, because if you lose control of the number of people living in a particular municipality, you've lost control of your sewage, water, the usage of parking, the safety issue—in other words, the whole planning process.

The major criticism to the garden flats, the basement apartments, the granny flats, legal or illegal, is that it's going to do away with decades of planning in this province, that the zoning bylaws, official plans and planning that's done by municipalities across this province is essentially turfed out the window. Albeit obviously this government is trying to solve a housing problem, is it not creating an unbelievable problem that won't be able to be rectified on all the issues I've referred to?

1440

**Mr Mwarigha:** I do not foresee that, purely on account of how much it would cost in certain areas as a refugee, for instance, to live in a basement apartment. It would probably be very costly to afford an apartment in that area. In most of the other areas—

**Mr Tilson:** That's not my point, sir. My point—

**Mr Mammoliti:** Let him answer.

**Mr Bill Murdoch (Grey-Owen Sound):** George, lighten up. You'll get your chance.

**Mr Mammoliti:** Mr Chair, he's interrupting the answer.

**The Chair:** I appreciate your help, Mr Mammoliti.

**Mr Tilson:** My point isn't being able to afford certain areas. The point I'm trying to make is that municipalities that have jurisdiction in trying to control the availability of schooling, the availability of sewage and water and all those other things, the planning process, simply will be wiped clean. That's the major criticism towards the granny flat, the garden flat, the basement apartments.

**Mr Mwarigha:** I don't agree with that. From one point of view, yes, of course, an introduction of any new legislation that is going to increase the density of an area does necessitate throwing away some of the old rules and regulations that govern a living environment. I won't deny that that is a point. My reference point is not planning rules and regulations. I sympathize with your point about schools. I don't know how that would differ from a situation where a developer comes into a certain area and proposes to build a multiplex apartment. Those issues of school and densities and social services will still have to be addressed. I think that being raised at this point is a red herring, unless those municipalities are saying that in those areas where they have finished their planning, they will not propose to have any new development at all. As I said, having an extra stock of basement apartments doesn't impose any different circumstances than a proposal to build new apartment buildings in the area.

**Mr Murdoch:** You mentioned the person who was living in an apartment who couldn't receive his mail because the person who owned the house was afraid they'd be found out. Would you ever consider that maybe that person shouldn't be living there because this apartment actually is illegal at this time? But now, if we legalize this apartment, it may not be up to fire standards

and things like this. Do you realize that the people who own it will have to spend considerable money to bring it up to standard if they want to keep it as an apartment? In the end you will probably get fewer apartments for people to live in than you've got now, because a lot of these illegal apartments we're talking about probably don't meet the standards. Did you ever consider the ramification that you might end up losing apartments instead of gaining them?

**Mr Mwarigha:** Yes, we've considered that balance, but we think that shouldn't be a basis for them to be denied their rights. Regardless of whether they are refugees or not, they have the right to a certain level of living standard when they come to this country.

**Mr Murdoch:** That's right, but this isn't going to guarantee it. They may not have any place to live now. They may have a harder time finding affordable rent.

**Mr Mwarigha:** That's a judgement call. I think if it is brought to bear for landlords to bring their apartments up to standard, they will do that.

**Mr Murdoch:** Yes, and then the rent goes up, and then this affordable rent you're talking about might not be there.

**Mr Mwarigha:** Not necessarily.

**Mr Murdoch:** I think you're going to chase away more apartments than you're going to gain.

**Mr Mwarigha:** Rent is not determined by the cost of repairs or upgrading. It's a supply and demand issue.

**Mr Murdoch:** I see.

**Mr Mammoliti:** Welcome to the committee. I want you to forgive Mr Tilson for all the comments he's made, because he just hasn't been here for most of the hearings.

**Mr Tilson:** I don't think you have either, George. You're still not here.

**The Chair:** Order. Mr Mammoliti, you know it is not parliamentary to refer to members' presence or absence.

**Mr Mammoliti:** It's not his fault. There were other Conservative members here. Nevertheless, if Mr Tilson had been here and if Mr Tilson had heard most of the deputations, he would know that the apartments he's talking about have existed for years and will exist. He leads the committee to believe that this piece of legislation will somehow create thousands and millions of new units, but if he had been here to listen to some of the deputants, he would know there have been studies on this and that it won't create the thousands of—

**Mr Tilson:** Great. Let's see the studies. File them with the committee.

**Mr Mammoliti:** Well, I heard deputants who've talked about the studies they have learned about and who have certainly told this committee it will not create the extent of accessory apartments Mr Tilson seems to believe it will. Would you agree with this comment? Let me put it this way. The illegal apartments Mr Tilson is talking about already exist, do they not?

**Mr Mwarigha:** That is true, and I think they will continue to exist.

**Mr Mammoliti:** And they'll continue to exist. But do you really believe, as Mr Tilson believes, that this is

going to create a flood of applications for apartments and that the sewers are going to be overflowing with water and that our schools are going to be overcrowded because of Bill 120?

**Mr Mwarigha:** I think that's a red herring, at best. I don't think that is going to happen.

**Mr Mammoliti:** No, and we've had people in front of the committee telling us it's not going to happen. If Mr Tilson had been here to listen to those individuals he may not have made the comments he made today.

Going on to something different and in my opinion a little more serious, more personal, if you don't mind: With your association and with the experience of individuals who come here seeking homes and looking for accessory apartments—apartments, for that matter, in high-rise buildings—do you find that racism is a problem with individuals in your community being rejected because of whatever reason, the colour of their skin, for instance?

**Mr Mwarigha:** Yes, it is a problem with some individuals. Indeed, there is a case coming up with the Human Rights Commission which highlights the issue of discrimination in access to housing. Yes, it is true with some individuals.

**Mr Mammoliti:** So when some Conservatives and some Liberals make an argument about the number of apartments out there and the vacancy rate, that this legislation is not needed because there's such a vacancy rate, what response would you give to that argument in relation to the experience of racism?

**Mr Mwarigha:** For us, what it amounts to is that we hear there is a high vacancy rate but in real terms we don't think it's a vacancy rate because we have people denied access to that kind of housing. In fact, about two weeks ago a member of staff had to go through so much scrutiny to get an apartment in a place which was advertising a high vacancy rate, so that was very surprising to us. But this is what it means to us: High vacancy rates are just a big-picture issue which doesn't impact on most of our clients at all, and because of the issue of race, even people who have an income continue to have the same problem.

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**Mr Mills:** I have such a short time that I'll just say thank you for coming. It's very enlightening. I just want to remind you that we had one of the most enlightened planners in the province appear before this committee and, if it's any solace to you, he said zoning has been and continues to be used to keep ethnic minorities, low-income householders, renters and additional populations of any kind out of a neighbourhood—not planning, zoning.

**Mr Mwarigha:** I'd just add that the progressive impact of that kind of policy is going to eventually divide the city into areas for this group, for that group, for the have-nots. We don't have to give the examples of the US, because certainly they are not the kinds of places we uphold as ideal. This kind of legislation, as I said, at least indicates a desire to stop that kind of development.

**Mr Grandmaitre:** You introduced yourself as the



housing coordinator for the Canadian African Newcomer Centre. Are you the housing coordinator for Metro or Ontario?

**Mr Mwarigha:** For Metro.

**Mr Grandmaître:** What has been your experience outside of Metro for your group of people, the African newcomer?

**Mr Mwarigha:** To be very honest, I have very little experience of housing issues and housing programs outside Metro. We can hardly stretch our resources within Metro. Unless I'm to talk from hearsay, we don't have any evidence to indicate that their experience is any nicer. Indeed, what we know is that because of, if you wish, a relatively better level of tolerance and development of consciousness on some of these issues, a lot of our people try to move into Metro from other areas because the level of intolerance in those areas is much higher. I guess this is like the last fort where they can take some solace.

**Mr Grandmaître:** I was asking you if you were the coordinator for Metro and Metro only for the simple reason that a lot of people who have sat in your chair have said this is a Metro or a Toronto made-to-measure piece of legislation, because the minister has identified 100,000 of these illegal or basement apartments in the province but close to 60% are in Metro. This is why I was asking you for your previous experience.

Do you think that by legalizing these apartments we will actually create more housing, more units? Do you actually believe this?

**Mr Mwarigha:** I wouldn't say we will actually create more housing. I wouldn't want to sit here and say something like that.

**Mr Grandmaître:** But you say that you approve of Bill 120.

**Mr Mwarigha:** Yes, from the premise that we know they are a de facto source of at least initial housing for most of our refugees and there is nothing, socially or morally, prohibiting us from supporting that kind of thing. Recognizing that, we go ahead to say if that's the situation, it's very important that we have legislation to back us up to try to ensure that the conditions under which they live are at least as close to par as can be with what is accepted as a normal standard of living here in Canada.

**Mr Grandmaître:** Contrary to what has been said before, this party is not against accessory apartments. We are against illegal apartments. This is where we stand. I'm not only talking about zoning; I'm talking about the safety, or the lack of safety, in these basement or accessory apartments.

I may be totally wrong, but I still feel that once we start sending building inspectors and fire safety officers around, a lot of landlords will not put up the necessary dollars to make these apartments legal, to meet all the necessary codes. Naturally, if these landlords are going to spend money, let's say a minimum sum of \$5,000 or \$6,000, those rents will go up.

**Mr Mwarigha:** I could argue that if you go back even as far as the late 1950s—and this is just to use one

illustration—when the issue of making it compulsory for each housing unit to have a fire alarm was first brought up, the issue of affordability on a general scale was very much part of the argument not to compel people to have a fire alarm, for instance. In terms of cost in the long run, one could also argue that with an increasing demand for building materials and all the materials necessary to improve the quality of basement apartments, the price may actually go down.

**Mr Grandmaître:** You mention the smoke alarm. A smoke alarm costs five or six bucks, you can buy one at Canadian Tire for \$5 or \$6, but if you have to create another access and windows and so on and so forth, you're talking about thousands of dollars.

**Mr Mwarigha:** We are talking about an investment which one perceives as bringing a benefit to the landlord in the long run. If I'm going to buy a house at this age and I have the option to have a basement apartment, surely over a 20-year period the costs of upgrading that basement will be insignificant in relation to the contribution that will make.

**Mr Grandmaître:** If your basement or accessory apartment qualifies, but if you have basement windows that are 16 inches wide you're not going—

**Mr Mwarigha:** Then you don't qualify, and maybe you shouldn't be having it as a basement apartment, I agree.

On the point about it being a made-in-Metro problem, if I can make a quick comment, it's very much like the kind of argument you hear from other areas outside of Toronto which say that the issue of homelessness only affects downtown Toronto. That of course you know is not true. It only happens that because of a number of circumstances most of the people who are homeless from around the whole area congregate in downtown Toronto. The same argument could be made that a lot of people who would need these kinds of facilities and basement apartments are not able to do so in other areas because of various levels of intolerance and for some reason have to resort—

**Mr Grandmaître:** They congregate in Toronto because there are more illegal apartments in Toronto than anywhere else.

**Mr Mwarigha:** The circumstances, not just housing. Most people who are in those circumstances have a whole series of income deficiencies, including lack of employment and so on, and that becomes part of the reason to congregate.

**The Chair:** Thank you for taking the time to come and see us this afternoon. It was an important presentation that will be considered when we are in clause-by-clause during the week of March 6.

**Mr Mwarigha:** Thank you very much, everybody, and thank you for your passion, Mr David Tilson. I appreciate it.

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GEORGINA COMMUNITY RESOURCE CENTRE

**Ms Michele McCormick:** I'm Michele McCormick with the Georgina Community Resource Centre. I'm the housing worker at the centre. For those of you who are

unaware, Georgina is the northernmost community in York region. We're in the GTA but quite a bit further—

*Interjection.*

**Ms McCormick:** I must say it's much warmer up there than it is here right now.

Basically, I came to offer some comment on the piece of legislation that's before the House right now, which is Bill 120. I intend to focus primarily on the apartments-in-houses portion of the bill. While we support the bill in principle, we don't care to comment on the home care provisions of it because we're not as well versed or experienced or don't pretend that we speak for anybody on that issue.

The entire bill itself is an important step in acknowledging and enforcing the rights of tenants, no matter where they choose to live.

As I said, Georgina is the northernmost municipality in the region of York. It has a population of approximately 30,000 and is still predominantly rural. We have some builtup areas, some urbanized areas, but we still have a lot of farm land supporting the town. There's a significant number of low-income individuals and families in Georgina. Tenants do not have much choice in rental housing. We need legal apartments in houses to contribute to the available safe housing in Georgina.

Illegal apartments in houses are in no way an exclusively Metro Toronto problem. I just caught the tail end of somebody else's presentation. My understanding is that it's kind of an ironic argument, considering that the city of Toronto has legalized a lot of its apartments in houses. It's seen as a Metro Toronto problem, but it's ironic in that they are legal here, where for the most part they are not in the rest of the province.

The housing crisis for tenants has exemplified itself across Ontario, not just in Toronto. Georgina is certainly not like Toronto, yet we must deal with a housing crisis. Like many other municipalities, Georgina has chosen to turn a blind eye to apartments in houses. Pretending that these units do not exist has only proven to exacerbate the issue and the situation for many tenants and home owners. It is time that municipalities recognize these units for the contribution they make to the rental housing stock in a municipality.

Despite the relative affluence that York region is known for, there is a housing crisis. This is due in part to the lack of effective foresight and planning on behalf of the region and Georgina. The population of York region has doubled to 500,000 in the last decade, which has created a lot of pressure not only in housing but a variety of other services in the region.

In York region, we are far behind the other GTA municipalities in terms of rental housing stock. Prior to 1976, there were only 4,137 rental housing units in York region built by the private and public sectors. By 1992, this had risen to 10,380 rental housing units. Most of those were built by non-profit and co-op housing providers. Sixty per cent of all the housing development took place between 1976 and 1986, so we had a major boom, as a lot of the country was experiencing at that time.

The majority of housing built during that time was, and

still continues to be, single-family dwellings that are owner-occupied. That's been the main form of housing in the region. This form of housing has dominated the housing scene in York region, consistently comprising over 80% of housing completions. Overall vacancy rates are generally much lower than in other GTA regions. Clearly, we have failed to effectively plan for the population in the region.

Georgina has very little rental stock. Because we're still a fairly rural municipality, we don't have any kind of high-rise development or anything like that. We do have medium-density housing, though not as much as in other areas. Owner-occupied single-family dwellings predominate. The remainder of the rental housing stock is comprised of apartments, town homes and cottages, many of which were built to house people only part of the year, not year-round. Tenants have even fewer choices for adequate and affordable housing than those in the most southern and urbanized municipalities. Apartments in houses help to bridge the gap between the need for affordable rental housing and the available stock.

Due to the physical structure of the housing stock in York region and Georgina, it seems logical that the lack of rental housing would be addressed by the creation of apartments in houses, because basically nobody's building private rental any more. We've still got non-profit and co-op going up. Unfortunately, apartments in houses are currently illegal under municipal bylaws in the whole region. This has led to tenants being faced with property, health and safety standards issues that are not easily remedied. If a tenant complains, they may face any of the following situations:

—Arbitrary eviction from a landlord who just wants to get rid of them, and because they are not covered under the Landlord and Tenant Act, they do risk that.

—Calling the town to be told that the unit is illegal, and now that the town knows about it, it can be closed down and they can lose their housing.

—Having to live with the problem because the landlord won't fix the problem.

—Moving because the situation is unreasonable and unbearable.

In terms of health and safety, legalized units will be safer units. Smoke detectors are essential and should be installed in all units. Once the units become legal, tenants will have the confidence to request safety inspections without fear of reprisal. Tenants will be safer and more secure in apartments in houses.

It is for those who live in both safe and unsafe units that we must legalize apartments in houses. These units are already in existence and need to be recognized as an important part of the rental housing stock. Ignoring them will not make them go away. Enforcing unreasonable and excessive standards will shut down good as well as bad units and exacerbate homelessness. Where would the people living in these units go if they were suddenly shut down? Because of the kind of housing stock we have in the region, we're really stuck for places for people to rent, and where would they go? There would be nowhere for them to go. While it's unrealistic to speculate that



there will be a sudden surge of apartments in houses being created, it may very well bring more on to the market when legalization occurs, if it does. For those that are unsafe, they should be brought up to reasonable health and safety standards or they should be shut down.

In terms of parking, recently the town of Georgina did a windshield survey to determine whether there was a parking problem, as part of their municipal housing statement process to look at intensification in different parts of the town. The survey covered a variety of neighbourhoods and times of day. The survey concluded that there was no parking problem in the town and went on to comment that the likely cause of cars on the streets overnight was families who had adult children living at home. Yet those families are not threatened with losing their home, as the tenant down the street may be. Furthermore, the parking spot is the issue, not whether there is a vehicle in the home. Theoretically, a tenant could be evicted and the unit shut down on the basis that there was inadequate parking, despite the fact that the tenant may not have a car.

Despite the favourable results of this study, the town has used it as proof that we need restrictive bylaws that would indeed make apartments in houses legal in some parts of the town, but would make it so restrictive that a number of them would still remain illegal because they couldn't possibly live up to all of the expectations in the bylaws. These bylaws, by the way, haven't been passed yet. They've been recommended as part of the municipal housing statement. Extremely restrictive zoning and property bylaws are not the answer.

The reason there aren't likely to be a lot of tenants coming forward and talking about this issue is that they're in a really risky situation if they come forward and identify themselves as a tenant in a basement apartment. They could risk losing the housing or the landlord risk losing the unit, which is why sometimes the opposition to this bill can be seen as overwhelming. There are many tenants and landlords who support this bill but are afraid to identify themselves for fear of reprisal. Georgina still is a relatively small community, and it would be easy for officials to find out where the person resided.

Traditionally, tenants have been lost in the municipal planning process. There is a bias against tenants that is exemplified in many discriminatory ways. Just to be a tenant is sometimes difficult in a community and a society that clearly prefers home owners. York region is an extreme example of that, because over 80% of the housing stock consistently has been single-family dwellings that are owner-occupied.

The rights of surrounding home owners should not be held over the basic human right of shelter. This is what happens when neighbours complain that they do not want "those kind of people" living in their neighbourhood. "Those people" can variously refer to tenants, newcomers, single parents or those of low income or who are receiving social assistance.

Apartments in houses tend to be more affordable than comparable legal units. It is unlikely to change dramatically. However, there is no guarantee of continued affordability or really the existence of this unit over the

long term. The owners may choose to use the space for themselves and their family or simply not rent it out. Others may be closed if they are not brought up to reasonable health and safety standards.

Bill 120 is certainly a step in the right direction, but it would not in itself satisfy the need for affordable and subsidized housing. Clearly, this bill isn't trying to address subsidized housing. This should not be used as an excuse to lessen the province's or a municipality's commitment to providing non-profit or assisted housing, or affordable housing in a municipality's case.

#### 1510

Apartments in houses serve a large segment of tenants, including low-income tenants who are unable to or choose not to reside in rent-geared-to-income housing. The waiting list for subsidized housing in York region for the York region housing authority is currently about 1,500 files, and that's only one waiting list I looked at. There's a real issue with people who are non-senior singles, couples and small families, those who would likely be looking for bachelors, one-bedroom and two-bedroom units. There are not many one- and two-bedroom units available. Most non-profit, co-op and Ontario Housing Corp housing was built to accommodate families and seniors. In Georgina, there are only 12 one-bedroom and 34 two-bedroom units built in non-profit and co-op communities for these designated groups: non-senior singles, couples and small families—this includes the market and rent-geared-to-income—so there's still a total of only about 46. Privately owned legal one- and two-bedroom units are scarce.

Municipalities should have control of the planning of communities. It is only when a municipality refuses to acknowledge reality—in this case, that these units do exist and people are living in them—that the province should step in or try and rectify the situation, preferably in cooperation with the municipality, if possible.

Many municipalities have demanded and yet not proved the need for or effectiveness of increased powers of entry. Tenants are currently in a bind in terms of what they can report to town officials. They would be much more likely to let health and safety inspectors into units if they were afforded the protection of Bill 120 and the accompanying regulations. This should be enough without unreasonably strengthening a municipality's power of entry, and I emphasize "unreasonably" strengthening.

For tenants in Georgina, the legalization could potentially end the following scenarios: tenants being forced to live in inadequate and unsafe units because it's all they can afford, or being threatened with illegal eviction, and harassment of supportive and good landlords by municipalities because rental housing has at some time in the past been determined to be inappropriate for a single-family-dwelling neighbourhood.

**Mr Mills:** You might wonder why I was popping in and out of the door. I was trying to locate your MPP, who is on another wonderful government committee dealing with tobacco. He told me he couldn't be here, but nevertheless he wants to let you know that he too recognizes your effort in coming from Georgina today in appalling weather to share your ideas with us.



**Mr Daigeler:** Is that Charles Beer?

**Mr Mills:** Beer? Who's he? We're talking about Larry O'Connor. Anyway, enough of that.

I'm quite interested in your comments about parking. This seems to be the tool that most municipalities use. They say, "We're going to be overloaded with parking." Most of the people who live in my neighbourhood have teenagers at home and they've got four or five cars, but we have no teenagers at home and we have one car. So I don't buy into this parking nonsense they're using as a means to restrict apartments in houses.

A while ago I made a comment about how municipalities use planning, and really it's zoning to keep minorities etc out. Some of my friends over there didn't seem to put much stock in that, but the person who said all of that was Dr David Hulchanski, a professor of housing policy and community development at the University of Toronto, director of the UBC centre and professor of urban planning, so he knows what he's talking about.

**Mr Tilson:** He appeared before our committee. We've heard what he has to say before.

**Mr Mills:** He knows what he's talking about.

**Mr Tilson:** I wouldn't go that far.

**Mr Mills:** Getting back to Georgina, how many illegal apartments do you think you have in Georgina township? I know you did a windshield survey—

**Ms McCormick:** I didn't do that windshield survey.

**Mr Grandmaître:** She's not working for the assessment office.

**Ms McCormick:** I'm in a community resource centre; I don't work for the municipality.

**Mr Mills:** No, I know that. I'm just asking you for your idea of how many.

**Ms McCormick:** Over 1,000 for the whole town.

**Mr Mills:** We hear so often that apartments in houses are a Toronto problem, that it's not up in the outskirts, so if you've got that many, that's an amazing figure.

**Ms McCormick:** It isn't. As I said, York region housing stock is 80% single-family. If you look at the way the regional municipality is set up, the bulk of the population is in the southern regions where it's more urbanized, so even a lot of the rental stock is down there. We get into this position where 80% to 85% of our housing stock is single-family dwellings, and probably 80% of those are owner-occupied, so it doesn't leave much for tenants.

**Mr Mills:** We've heard comments from members that to make the apartments in houses safe will constitute a great expense to the owner and therefore a lot of this housing stock will disappear from the market. Would you subscribe to that theory? How do you see that?

**Ms McCormick:** In my experience, the bulk of the units I've dealt with through tenants have been fairly safe; they haven't been 100% safe, by any means. It represents an investment for the home owner and if there are really gross, bad things happening in this unit, maybe it should be shut down, but I don't think the bulk of the units are like that. Most of these arguments seem to be based on the worst-case scenario that this place is a

firetrap and there's nothing that can go right for it. There are a lot of units that need and should have upgrading, but there are some that are quite healthy and safe that seem to get lost in the shuffle when we're discussing this.

**Mr Mills:** Are you basically in support of Bill 120?

**Ms McCormick:** Yes, I am.

**Mr Grandmaître:** How many non-profit or cooperative housing units would you have in Georgina?

**Ms McCormick:** Approximately 400 or 500.

**Mr Grandmaître:** In your answer to Mr Mills, did you say you had 1,000 illegal apartments?

**Ms McCormick:** That's just a guess. I haven't done a survey or anything.

**Mr Grandmaître:** So you have more illegal than legal units in Georgina.

**Ms McCormick:** I would say so, yes, because those 400 or 500 include non-profit, cooperative and OHC units, and the bulk of those were built for seniors.

**Mr Grandmaître:** Because Georgina is a rural section of York, can you describe these illegal units? Are they add-ons or are they accessory or basement apartments?

**Ms McCormick:** The ones I've been involved with have been accessory ones, mostly in builtup areas, traditional kinds of subdivisions and older subdivisions.

**Mr Grandmaître:** And most of them are illegal because of zoning?

**Ms McCormick:** Yes.

**Mr Daigeler:** Has the town of Georgina officially dealt with Bill 120 and formulated a position?

**Ms McCormick:** I don't know specifically about Bill 120, but I know with Bill 90, the previous bill, there was official opposition to it. They voiced their opposition to it and sent in a brief saying they disagreed with it.

**Mr Daigeler:** Would you know the efforts of the town with regard to the housing intensification policy that was in place until now?

**Ms McCormick:** They still have been working and brought forward a draft municipal housing statement with the bylaws etc. I think it was last year, so it's still in process. It hasn't been finalized and approved yet.

**Mr Daigeler:** Is that the region, or a municipal—

**Ms McCormick:** No. The municipal housing statement was only for the town of Georgina.

**Mr Daigeler:** They have prepared their own housing intensification statement?

**Ms McCormick:** Yes.

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**Mr Daigeler:** I find that interesting, because often we have heard that municipalities haven't been doing enough. You may argue that it should have been done faster or whatever, but there's clear evidence that there is at least an effort under way to recognize the problem and address it. Would you not say so?

**Ms McCormick:** They are under way with their municipal housing statement, I agree. I will argue that it took a bit too long, but certainly they are acknowledging it. The issue is that they're acknowledging it in such a



way that it's going to be so restrictive for people to actually have an apartment in a house, or accessory unit, that they're going to end up still being illegal in the majority of cases.

**Mr Daigeler:** Does the township support intensification, though, and if so, how is it planning to achieve it?

**Ms McCormick:** Because we still have a lot of rural area, with secondary plans and everything that's coming forward they're looking at concentrating development in already developed areas, for obvious reasons: We have a lot of grade A farm land and we don't want to see that lost. I don't want to pretend to speak for the town, but it seems to be in support of the principle of intensification and is concerned that it wants to do it on its own terms.

**Mr Murdoch:** The problem I have, and I wonder what you think of this, is that we have a democratic process that's been set up over the past years where municipalities get to set their zoning and their planning and things like this. I know you don't necessarily agree that your municipality has worked fast enough in changing its laws to allow basement apartments in different areas, but it has zoned single-family dwellings and single-family areas. I have always been of the opinion that municipal councillors are the grass-roots politicians and seem to know better what people want in areas. From your brief, I see you would think that because maybe in some people's minds they aren't doing what's proper, we should have a government in Toronto just come out and overrule the municipalities. We do have a process set up. It fits in with the socialist government of the day to be able to do this and trample over people's rights, but how can you justify that in a democratic country like we have, that they're just going to do this? The municipalities are not in favour. I'd like your thoughts on that.

**Mr Mammoliti:** Do we have to endure this? He's insulting us.

**Mr Murdoch:** George, was I insulting you? I'm sorry. Are you not a socialist government over there? I'm sorry then, George. Anyway, I'd like your comments.

**Mr Mills:** It sounds like the committee is going down.

**Mr Mammoliti:** It's since those two have come to the committee that things have been going down here.

**The Chair:** The presenter has the floor and would like to answer the question Mr Murdoch has posed.

**Ms McCormick:** I'm not trying to slam the municipal government. I don't pretend to be here to represent them, by any means. They wouldn't be pleased. My concern is that this problem has gone unaddressed for a long, long time. Municipalities have been aware that these units are there and we are choosing, as a society almost, not to deal with them in the hopes that maybe they're going to go away. I don't think they're going to go away, and somebody has to take action on it. The justification is that this is a housing and a human rights thing, that people should be able to live where they want.

**Mr Murdoch:** Maybe that isn't why; maybe they don't know how to address it. Individuals are not building apartments units because of the restrictions of the socialist government here at Queen's Park on landlords,

so what's happening is that we're not getting enough units. They're hoping that maybe the restrictions could be lifted on landlords and then maybe we'd get the free enterprise system building homes and that would solve the problem. Maybe that's the reason they haven't addressed it. Did you ever think of that?

**Ms McCormick:** Are you talking about rent control specifically?

**Mr Murdoch:** Yes. We have a socialist government in power now and it wants to control the landlords. That's stopped all the building. You said in your brief that we're not getting enough and that's the problem.

**Ms McCormick:** If you're talking specifically about the government that's in power, rent control's been in since 1976, has it not?

**Mr Murdoch:** Some of it has, yes, but the first bill that this government brought forward was a new rent control bill which went retroactive.

**Mr Mammoliti:** Who introduced rent control?

**Mr Murdoch:** The first bill, George, that your government brought through.

**The Vice-Chair (Mr Hans Daigeler):** Order, please. Mr Murdoch, would you place your question, please?

**Mr Murdoch:** I had until we got interrupted by the party over there.

Maybe that's the problem. I don't think they felt it would go away. I think they felt maybe if they left it, it would help out until the markets pick up.

**Ms McCormick:** Do you mean "they" as in the previous government?

**Mr Murdoch:** No, the municipal governments. You said they didn't address the problem because they felt it might go away. I don't think that was the reason.

**Ms McCormick:** I'm coming from the tenant rights perspective and being a tenant myself. There needs to be some recognition of this issue, and the municipalities have considerably, over the years, ignored the issue and not wanted to deal with it. If the municipality's not going to deal with it, who is going to?

**Mr Murdoch:** I think they've tried to.

**Mr Tilson:** These illegal apartments have existed for years, through all three governments, and you're right, none of the three parties at this table has dealt with it.

The problem I have with a comment you made is that this government is simply saying, "We know they're illegal, so we're now at the stroke of a pen going to make them legal." Yet we all know, and I'm using your words, that they will continue to be illegal; not all of them, but many of them will continue to be illegal. The reason is because of the standards it will require. Many municipalities, certainly in my riding and I suspect in your region, simply will not have the financial resources to go around and adequately deal with the illegalities, whether it be fire, building bylaws—whatever's left of them—to make these dwellings legal. That's the contradiction.

I'll give you an example that I'd like you to comment on. In my riding, the township of Mono passed a resolution expressing their concerns about this legislation with respect to the fiscal impact. After I read this, could you



tell me whether Georgina has expressed publicly the potential financial impact this legislation could have on it, and potential taxes? It was in the form of a resolution dealing with the impact on the environment. The resolution was:

"That further review and consultation with municipalities is required on the financial impact to municipalities for provision of services to these additional, unplanned units which cannot be considered as part of a development charge bylaw; and that the ministries of Housing, Municipal Affairs and Environment and Energy provide a detailed study regarding the environmental impact"—which gets to your cottage situation—"resulting from the additional capacity required for additional dwelling units on municipally and privately owned water and sewage systems."

Has Georgina, either the municipality or the regional municipality, commented on what financial impact this legislation will have on how it's going to implement it?

**Ms McCormick:** I can only speak about the Bill 90 stuff I saw that they forwarded. They were pretty much completely against the bill as it stood at that time, so I'm taking a jump and assuming they're against this one as well. They may have other comments because of the home care provision stuff, but I know they were against it, and there were a lot of different reasons. One that sticks in mind most is, "The province is coming in here and telling us what to do" and this kind of thing. That certainly was an issue.

The way I feel is that when they're out in the open and we can look at them and acknowledge that these are part of the housing stock, they will be assessed like part of the property, reassessed under property bylaws.

**The Vice-Chair:** We appreciate you coming and sharing your views with us. I think it's the only representation that we've had from your community, so it's very welcome.

1530

#### SCARBOROUGH COMMUNITY LEGAL SERVICES

**Ms Diane Urquhart:** I'm Diane Urquhart, representing Scarborough Community Legal Services. I'm here with a very simple message: Pass the bill. I could stop there, or if you want me to stay, I'll finish.

Nine years ago, we had a client. She was 16 and she was renting an apartment in a house. She came to us for help around a common problem faced by tenants of apartments in houses: Her landlord had locked her out of her own home. It was 11 o'clock on a Friday night. The police helped her break back into her own home, and the landlord, in the process, was so threatening and aggressive to the police that he had to be arrested. A few days later he returned to the house and he locked her out again. This time she wasn't able to get back in. It took her two days to get her pets out that were in the unit—and that only with the help of animal rescue—and it took her a further almost month to get her possessions out. There were no legal grounds for eviction and no legal process, but that didn't matter; she was homeless.

Nine years later, last week in fact, I had another 16-year-old come to us for help. His landlord had just told

him that he was throwing him out on the lawn with his belongings. Again, there were no legal grounds for eviction and no legal process. So I guess it's true that in Scarborough in many ways lots of things don't change.

For 10 years, the lack of basic rights for tenants of apartments in houses has been a major focus of the work of our clinic. Thirty per cent of the private sector tenants who call us for help are tenants of apartments in houses. The problems they call us about today are the same as those they called us about 10 years ago: summary evictions, illegal lockouts, inability to get repairs done, inability to enforce minimal standards, including the provision of heat and electricity, illegal rent charges, complete disregard for the tenant's right to privacy and confiscation of personal possessions.

You've heard in detail in other submissions that tenants in apartments in houses lack the clear, substantive rights enjoyed by other tenants in the province, and they're commonly unable to enforce what rights they do have because local governments, such as ours, have passed restrictive municipal zoning which renders their units illegal.

It was almost a decade ago that we helped start the first group in the province dedicated to rectifying this most obvious of injustices: the second-class tenancy rights for tenants of apartments in houses. At that time we were not clear what was required. Now we are. After 10 years of unenforceable maintenance, illegal and summary evictions, countless studies, many community meetings and several intransigent councils, our clinic is here to say it's time for the province to force a change. Second-class tenancy rights for any group of tenants is discrimination and it's nothing else. Pass the bill.

This is the first reason we support Bill 120. It rectifies direct discrimination against a particular group of tenants by granting them equal rights to those that other tenants in the province have. It will bring tenants of apartments in houses and of so-called care facilities clearly under the Landlord and Tenant Act and the Rent Control Act. It brings apartments in houses clearly within the purview of building safety and fire code standards, standards which have been developed by experts in their respective fields.

The position that's sometimes been put forward that somehow home owners and tenants are in fact better protected by not having rights and responsibilities established in law is simply specious; it's incorrect. I'm sorry, but having no rights and being forced to rely on negotiation or goodwill or local discretion or other arbitrary criteria is fine if there's no dispute, but it's not helpful for a landlord or a tenant when there's a dispute between them, or for a landlord when he or she has a dispute with the municipality.

Bill 120 gives tenants and landlords a clear outline of their respective rights and responsibilities with respect to each other and with respect to the municipal government. The standards provide the possibility of addressing the problem of substandard and unsafe units.

The bill will not put an end to disputes between landlords and tenants, nor between tenants and municipalities. However, it provides a mechanism for resolving disputes in a way that's fair to all parties, within a



municipality and across municipalities. This is a major advance, and it's qualitatively different from what we face now when a tenant calls us.

You've heard detailed submissions explaining how exclusionary zoning, such as we have in Scarborough, is a violation of human rights. I won't go into an explanation in detail here. You have submissions by the Centre for Equality Rights in Accommodation and the Inclusive Neighbourhoods Campaign, both of which address this issue in considerable detail, and our clinic strongly endorses their briefs.

It's precisely because of municipal councils, like ours in Scarborough, that the province must intervene. Our council has been completely intransigent and unapologetic in promoting discriminatory attitudes and policies. What we have in Scarborough is zoning apartheid. Our council proudly insists on excluding tenants as a group, by law, from living in large sectors of the municipality, those designated for home owners only. It's discrimination on the basis of tenure, social position and economic status, and it must be changed.

In the United States in the 1960s, the national government had to intervene to end residential and other forms of segregation in the southern United States. Still, in 1994, segregation exists in municipalities across our province, enshrined by archaic zoning bylaws and rationalized as necessary, in municipalities such as ours, for the stability of neighbourhoods. As in the States 30 years ago, senior levels of government must intervene to rectify what is a clear violation of human rights. We need Bill 120.

These are the two main reasons our clinic supports Bill 120 being passed as expeditiously as possible: It's simply wrong for municipalities to be allowed to make it illegal for tenants to live in entire neighbourhoods, and it's also wrong to tolerate second-class rights for particular groups of tenants. Bill 120 moves a long way to rectifying both of these injustices.

There's a third issue I want to address briefly: the concern that municipalities are best suited to plan for local conditions and the suggestion that Bill 120 violates that right. The very reason we need Bill 120 is because municipalities, such as ours in Scarborough, refuse to respond to the articulated needs in much of their planning that have been put forward by tens of thousands of local residents.

We have 14,000 illegal apartments in houses in Scarborough; 5% to 8% of the rental housing stock has been defined as illegal by the city. Those units have tenants in them because the needs of those tenants have not been addressed or met in any way by Scarborough council. Furthermore, 14,000 home owners want and need the units enough that they are willing to risk breaking the law and having a fine levied against them in order to meet basic needs of their family. Those are articulated needs of 28,000 individuals—that's if it's singles—in the municipality who for years have had their needs ignored.

Our own planning commissioner in a report to council stated, "Our zoning bylaws are based on the ideal of single families in their own houses, with each family owning one car." It was a useful, relevant basis for

zoning in the 1950s. We've come a long way since then, but our zoning regulations have not come all the way with us. Zoning bylaws deal most effectively with physical objects and dimensions and the basic uses of land. They do not understand and regulate well the social dimensions like families and household. Perhaps we should get out of the business of zoning for dwelling units.

Apartments in houses have existed as a common housing form for decades in all parts of the province. They are ordinary people's solution to the problems that ordinary people face: how to pay the mortgage, how to look after elderly relatives, what to do with your adult children when they become unemployed, what to do with extra space when the children move out. People will put apartments in their houses and people will rent apartments in houses as long as that is what meets their basic needs and their needs are not being met elsewhere in the planning process. Municipalities can zone them illegal if they like, but as we can see, it doesn't work. They may as well zone it illegal to have relatives living with the family. People will do what they have to do to survive.

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Cities evolve, and what they evolve into depends on demographic and economic trends, not on zoning bylaws which try to restrict that change. Households are smaller now. In many communities, the population is aging. Home ownership is increasingly unaffordable. People move to where they can get work. These are some of the factors which change our neighbourhoods. What is required is planning that's flexible and allows for the natural evolution of neighbourhoods, populations and cities.

The convertible home is a popular trend in building and real estate, for good reason. Neighbourhoods will not be destroyed because tenants are allowed to move in. It's simply foolish to suggest that populations will double because apartments in houses are going to be legalized. The birth rate is not going to go up with the passage of Bill 120, and people in Prince Edward Island, or China, or Moose Jaw, Saskatchewan, are not going to read in the paper that apartments in houses have been legalized and say, "Wow, I'm going to uproot myself and get myself one of those." People will move to places like Scarborough or Kenora or anywhere else if there are economic or social reasons for them to do that, and they'll move into housing which is available, legal or illegal.

It's time that municipalities get out of the business of dictating whom people are allowed to live with in their own space and start addressing some of the serious social issues that face our cities, issues such as unemployment, inadequate public transit, an aging population and the need for massive capital repairs of much of the rental housing stock.

Apartments in houses are fundamentally an ordinary person's solution to ordinary people's problems. It's what governments of all stripes say they want: They want people to solve their own problems and not look to government. Pass Bill 120 and let home owners and tenants get on with it.



In summary, I want to list some specific recommendations we have with respect to the bill:

—We would like Bill 120 to be passed as expeditious-ly as possible.

—We endorse all the recommendations put forward by the Inclusive Neighbourhoods Campaign. Do you want me to list them? No.

—We support INC's recommendations in particular which address the issue of protecting the security of tenure of tenants in the process of enforcing standards, so I do want to list those. There are four of them, specifically that the Planning Act or Municipal Act be amended to permit municipalities to readily recover the costs they incur repairing private residential rental premises; that the Planning Act be amended to include steps municipalities must take to repair and preserve housing rather than close it down for violations of property standards bylaws; that the Landlord and Tenant Act be amended so that tenants may obtain an order requiring municipalities to make necessary repairs; and that the Planning Act be amended to provide appropriate remedies for zoning infractions and to specify that these remedies do not include prohibiting occupancy and closing the unit down.

—We're concerned about the inadequacy of the egress requirements. We recommend that every unit should have at least two means of egress and that if a window is an exit, it should have no dimension smaller than 20 inches.

—Lastly, since standards and the enforcement of standards are a major concern of our clinic, we recommend that the government create provincial standards for existing units that set minimum minimums which are reconciled with the maximum minimums set by the building code part 11 standards.

I'll give my written submission in 10 days.

**Mr Daigeler:** I look forward to Thursday, when the mayor of Scarborough is coming before the committee. I'll certainly be quoting some of your remarks and see how the mayor feels about it. I don't know what's going on in Scarborough, but there seems to be quite a fight back and forth.

I understand your position and of all the other community legal clinics. What I don't fully understand, though, is that you just said there are something like 28,000 people who are quite in favour of this. Why would they not be able to elect a council, or at least councillors, who are more supportive of the views you are putting forward? Wouldn't that be the normal way to go in our democratic Canadian system?

**Ms Urquhart:** If we ran municipal elections in Scarborough on the issue of apartments in houses that's what would happen, but in fact we run elections on many issues and apartments in houses have not normally been the central issue. There are economic issues, there are issues of housing, there are broader issues, and any government is elected as a package deal.

There have been many community meetings where many, many members of the public have come out to support apartments in houses, have lobbied for legalized apartments in houses. It's a long-standing fight in Scarborough, a 10-year fight, and people have been very

clear that's what they would like.

There always is a question of how responsive a government is to the needs of the people, and certainly there are, at all levels of government, issues which a government brings forward that do not represent the views of the majority of people. Many people would feel that the salaries of MPPs, for example, should be lowered and would favour that, but we don't run elections on that, so that's not something that—

**Mr Mills:** I don't buy that.

**Ms Urquhart:** There is always a difference of opinion in any municipality and, frankly, the apartments-in-houses issue has not been the central issue in any election that's been run in any municipality.

**Mr Daigeler:** There is just one other question I have to ask now. The community legal clinics especially are putting forward the argument that this is a human rights issue and that essentially you ought to find housing wherever you can get it. I'm just wondering whether you would draw any kind of line. In fact, you even said it is time to throw out all kinds of zoning, so perhaps you are ready to say you can move wherever you want, wherever you can get it. Is that the position you would take? Why would we limit it, as we are doing with Bill 120, to just one apartment? Why couldn't we say let's subdivide it three, four, as many as we can get into the house? Under that argument that it's a human rights issue, where would you draw the limit?

**Ms Urquhart:** Certainly Bill 120 doesn't resolve all the human rights issues that are a problem in zoning and in the provision of housing. We've got a long way to go. We have the possibility within Bill 120 to rectify one specific form of residential zoning segregation, and on that basis we would support it.

Arguments have been put forward that there shouldn't be a restriction on one unit per house, but that has been primarily a politically expeditious position that's being put forward in this bill. There is going to continue to be zoning. Zoning should control land use issues, not who lives with whom, and it's appropriate that municipalities should utilize zoning to do that.

People are not going to move just anywhere; that's the point I'm making. People move to where they have to move to. They're going to move close to their work if they can—if they have work; that's less a problem these days. People are going to move close to family or work or whatever. If you have entire areas of the city where it's illegal for particular groups of people to live, that's simply wrong. It's 1994, and we've come to understand that that's not appropriate. Bill 120 could rectify one specific human rights violation, and on that basis we would support it.

**Mr Murdoch:** I'm just going to say thank you for coming. After hearing the arguments from my colleague you still support Bill 120?

**Ms Urquhart:** I think so. I haven't been convinced yet.

**Mr Murdoch:** Okay, thank you. That's all I have.

**Mr Tilson:** I have no questions.



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**Mr Owens:** Ms Urquhart, it's good to see you at committee and I appreciate your supportive comments.

As a practitioner in the landlord and tenant war zone—I guess that's the best way to characterize the relationship. Argument has been made to this committee over the last three or so weeks that an abbreviated eviction process is needed particularly in those residential settings that provide some amount of care or "rehabilitation." In your submission, however, it indicates to me that there is already an abbreviated eviction process that we're trying to clean up here. Would that be your view as well, that there is currently no ability, no rights, no means to a remedy for people, that in fact we do have an abbreviated eviction process?

**Ms Urquhart:** In practice that's what happens. Tenants of apartments in houses are covered under the Landlord and Tenant Act. The issue always is the ability to enforce that. What happens at this point is that if a home owner wants a tenant out, the tenant is out. That's the bottom line. It's a very abbreviated process. There are things we can do after the fact to try to rectify that but fundamentally they're not very effective. The difficulty comes largely from the fact that although they're covered under the Landlord and Tenant Act their vulnerability is increased because the unit itself is illegal. If it actually ever gets to a court proceeding, after they've been thrown out and they've spent two weeks getting their possessions back, if at that point they want to proceed to bring it to court and get back in the unit, by this point is the unit going to be there? By bringing it to court, have they risked that the unit will be shut down?

**Mr Owens:** In terms of Mr Daigeler's question with respect to political activity, do you think that in the city of Scarborough any person in his or her right mind, or very few, will get out and declare in today's atmosphere that they either have a basement apartment or live in a basement apartment and work towards the election of a group of people that would be more representative of reality in 1994? Or are people still afraid they'll lose their units, lose their homes?

**Ms Urquhart:** Tenants and home owners are very intimidated around this issue. In Scarborough, the council meetings, the public meetings, have been extremely hostile and abusive, with openly racist comments being tolerated and even in some cases encouraged. Home owners who have come forward on this issue have been openly harassed by council to the point where they've had to sell their home.

The buildings department has said to our clinic, "Don't have tenants call us if they have a problem, because we'll come in and shut the unit down." That's the advice we've got from buildings and inspections when we've talked to them about serious problems like lack of heat and disrepair. The atmosphere in Scarborough is very, very hostile to these people.

There was a survey just done within the last two weeks—I don't have the details; I'm hoping a later presenter can give them—of home owners and tenants of apartments in houses on their view of Bill 120. It was done by Scarborough Housing Help Centre. When they

were asked about the bill, roughly half of the home owners were unaware that their units were illegal, and when they found out that their units were illegal they were so concerned that they would lose the rental income and therefore their home if they answered, anonymously, questions to a survey that they wouldn't even discuss the issue. A few did answer and were supportive of legalization. There have been a few that have been active in the community around the issue. The tenants overwhelmingly supported legal rights. Why would they not?

**Mr Owens:** Argument has been made that municipalities want an unfettered power of entry. Do you think that's reasonable, to give a municipality the right, simply because you don't cut your grass, to enter your home?

**Ms Urquhart:** No, we don't support the provisions for increased powers of entry. The argument has been articulated in the INC brief. It's very clear: We can't get inspectors into units where we have several hundred tenants begging for them to come in. I've got four buildings I've been to in the past week that don't have heat, and we can't get inspectors in. The issue is much bigger than that. The issue of enforcing standards is a problem for all rental housing, and it's difficult for tenants to have standards enforced with the kinds of inadequate enforcement mechanisms—

**Mr Owens:** Is it political will?

**Ms Urquhart:** Yes. I mean, there have been cutbacks. Inspectors can only inspect so many units, so in fact the problem for tenants is to get an inspector in. In illegal units it's because the unit would be closed down; in legal units it's because of overwork.

Increased powers of entry is only an issue in those cases where a municipality wants to have the opportunity to close units down. If the provisions exist to have units upgraded and to have some funding for that, tenants will be begging to have inspectors come in. They call us now, even when the units are illegal, and want the inspectors in.

**Mr Mills:** Your problems with apartments in houses aren't only up in Scarborough, which seems to me to be particularly awful, but you can throw a brick to where I live. A couple of weeks ago they came in there and took the motors out of the elevators because the owners of the building didn't pay up. How on earth people were supposed to get to the 25th floor was absolutely beyond me. They're doing this all over the place, and these are supposed to be legal apartments. I have a lot of empathy with what you're saying.

Also, I read somewhere about the awful racist remarks that are made at that Scarborough town council. When Mrs Trimmer comes here on Thursday I'm going to see what she's got to say about that because I think we have no place in Canada today for councillors who represent people having the audacity to get up and make racist remarks. In my riding one of the councillors got up and said that people who live in apartments make no contribution to the wellbeing of the community. The guy should be strangled.

**Mr Tilson:** Is your name Jag?

**Mr Mills:** Well, not strangled, but maybe—



*Interjections.*

**Mr Daigeler:** Just in case you want to run for the federal government.

**Mr Tilson:** Yes, there's an opening in Markham.

**Mr Grandmaître:** I want to go back to the four buildings that you mentioned have no heat. Do you think Bill 120 will turn the heat on?

**Ms Urquhart:** Bill 120 is not going to turn the heat on in those buildings any more than—

**Mr Mammoliti:** Bill 95 will. We're debating that on Monday.

**Mr Grandmaître:** But you were talking about the problems you're having, and I realize the problems you're having because I happen to deal with legal clinics in my own area. I'm not criticizing your clinic, because I haven't dealt with your clinic. In my area of Ottawa-Carleton, when you get in touch with the legal clinic people about a housing problem or the landlord and tenant wars, as they're called by Mr Owens, do you know what their answer is? It's a pat answer: "Phone your MPP." Is this part of your agenda, "Phone your local MPP," when you can't find a solution?

**Ms Urquhart:** We're saying on this issue phone your MPP. It isn't the solution in all cases.

**Mr Grandmaître:** I can do the same thing: "Phone the government."

**Ms Urquhart:** Yes. In some cases it's up to the government to rectify long-standing problems, and this is one of them. Until this bill is passed, when the tenants of apartments in houses phone us we're limited in what we can do. Once the bill is passed I've said it's not going to end disputes between landlords and tenants, but it gives a mechanism, separate from phoning the MPPs, through which they can try to rectify them.

**Mr Grandmaître:** The Minister of Housing lives in my area, and she won't even deal with you people.

**Ms Urquhart:** She's dealt with us.

**The Chair:** Thank you very much for appearing before us. I can almost tell it's getting close to 4 o'clock.  
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## WOMEN PLAN TORONTO

**Ms Shirley Roll:** My name is Shirley Roll. I'm with Women Plan Toronto, which most often deals with municipal issues, but sometimes we extend where we feel it's appropriate, and we feel Bill 120 is appropriate. I am the housing/planning co-coordinator. I've prepared this presentation with the help of a number of other members of Women Plan Toronto. It's just that my timetable is more flexible than theirs, which is why I'm here.

Along with what I'm going to say, the document I've submitted entitled *What is Housing Intensification?* is a paper that was prepared by Women Plan Toronto last year as part of a community outreach education project. Although this document addresses the larger issue of residential intensification, much of it is relevant to accessory and secondary apartments, specifically the sections "Benefits of Housing Intensification," "Tenants and Home Owners" and "Community Responses."

Women Plan Toronto strongly supports the passing of

Bill 120 in so far as the bill extends protection of the rights of tenants to include many tenants who presently do not enjoy this protection and in so far as the bill prohibits exclusionary zoning in terms of accessory and secondary dwelling units in houses, which in turn promotes the development of a form of affordable housing. Residents' rights we find are a women's issue in consideration of the fact that the majority of women are tenants, not home owners, and the majority of seniors, whether they live in care facilities, other rental properties or their own homes, are women.

Women who are seniors and who now live alone in their houses may no longer need or want the amount of space they are living in but wish to remain in their communities. Many of these women would benefit from being able to convert their homes to include a second dwelling unit or to be able to legally rent out a unit that already exists. The rental income a second unit would provide is only one of the benefits they would enjoy. The older woman may find a tenant who would provide some companionship or who may be able to do some odd jobs or property maintenance as part of the agreement, or the older woman may just find psychological comfort in knowing that there is someone else close at hand who could be reached in an emergency.

A secondary or accessory unit could just as likely benefit the tenant in any number of ways. The tenant could be an aging parent who needs her privacy but also requires proximity to a potential care giver. The tenant could be any other family member who, for whatever reason, requires the privacy and proximity provided by a second suite. Or the tenant may be totally unrelated to the home owner, but need affordable housing and wish to live in that particular community and in that form of accommodation. In every case the tenant will benefit from legalization of the suite in terms of the protection of the building standards legislation and that of the Landlord and Tenant Act.

As with other forms of residential intensification, all members of the community, and women in particular, benefit in an important way. More people in close proximity to one another provide greater opportunity for casual surveillance or eyes on the street, one of the most effective personal safety measures available. More people also benefit local businesses and make better use of existing infrastructure and services.

Secondary apartments in houses exist in most communities, whether they are legal or not. Passing this bill to legalize the units will benefit both the home owners and the tenants. Presently, owners are being denied by their municipalities, through exclusionary zoning bylaws, the opportunities such as the ones I've mentioned. Bill 120 will ensure that the property owner has the right to rent out part of their house, but will also ensure that the rent controls and fire and health protection required for the tenant are provided.

Women Plan Toronto is aware of studies both within and outside of Metro. The conclusions of these studies present a positive case for allowing secondary units as of right, from both the tenant and home owner point of view. Secondary units were not cited in these studies as



being sufficiently financially lucrative for home owners to convert just for the sake of making money. In most cases the secondary units have evolved as they were needed as a way for the owners to be able to afford their housing. For example, the rental unit allows the young couple to meet their mortgage payments or provides the seniors sufficient supplemental income to be able to stay in their own homes.

The flexibility provided by temporary conversions and deconversions of secondary units can be very positive for families as they move through the various stages of their lives. Almost all the houses surveyed were owner-occupied, so they would not present problems feared of properties rented by absentee landlords.

Women Plan Toronto is pleased by the extension of the temporary bylaws for garden suites. The 10-year time frame indicated in the bill may provide encouragement for investment in these suites, given a longer period to rationalize the expense.

Notwithstanding our enthusiasm for this bill, we do have a few concerns.

What sorts of supports and funding will be available for education, advocacy and community work with respect to secondary units?

Will there be attempts to work with municipalities to overcome the negative reaction municipalities seem to be having to being forced to accept provincial mandate?

What is the breadth of the agreements between municipalities and owners of the garden suites?

Will there be funds to promote the conversion of units?

Women Plan Toronto's experience and expertise is related more to land use issues and less to the issues of tenant rights. Our interest and concern does extend this far, however, which prompts our final concern: In the cases of tenants occupying shared facilities, we are concerned that there be a vehicle in place that would allow expedient removal of a tenant who proves to obstruct or hamper the comfort or security of others sharing that accommodation.

We do care that our concerns be addressed. We consider this bill an excellent and important initiative and hence we also care that it be passed. Hopefully, our concerns can be addressed through amendments and the bill be passed and put into law without further delay.

**Mr Tilson:** This government has expanded its policy with respect to non-profit housing. Private land owners have told us, in fact statistics have told us, that there have been fewer apartment buildings constructed since this government started the expansion of that policy—it didn't start that policy, but since the expansion of that policy. The reason they've said that—

**Mr Mammoliti:** The recession.

**Mr Tilson:** Yes, Mr Mammoliti, the recession has been part of it, but part of it as well has been the economics of running apartments, the costs of many of these buildings: for example, the capital requirements that have been needed to upgrade them and the rent control policy. In other words, the overall housing policy of this government hasn't been widely accepted, particularly among the

private sector. I'm not talking about legalizing illegal units; I'm talking about the attempt by the government—at least that appears to be one of its reasons for putting forward Bill 120—to create new units. From your pamphlet, you obviously communicate with a large number of municipal organizations. Do you have any information that private ownership, whether of houses or larger buildings, will embark on the expansion of new units, with the housing philosophy of this government?

**Ms Roll:** I'm not sure I understand the question. As far as apartments in houses are concerned, I think that's a whole different ball game from building apartment units and the social housing programs that the province has in place. I'm not sure how the two can really be compared.

**Mr Tilson:** There are two issues: The one is legalizing illegal facilities, and there are all kinds of them. We're having all kinds of statistics. I don't know where they come from, but there are people making submissions that there are all kinds of illegal apartments across this province. I believe that as well, having been a municipal councillor and having had them pointed out to me.

But my question to you is the encouragement by this government to create new legal units—in other words, to construct new units—whether they be basement apartments, garden flats or whatever. What with the economic climate and the housing philosophy of this government, which doesn't really pay people to get into this, have you had any information, particularly from the private sector, about whether people are being encouraged to get into this business?

**Ms Roll:** From the surveys I mentioned that we're familiar with, one in particular that I was discussing with someone this morning that took place in Kitchener by its housing department, none of the people surveyed, owners of the houses that had suites—most of which were illegal, by the way—had those units because they were going to make money. They had them so they could pay the mortgage, so that they could afford to actually own the house. When they pay the mortgage off, they'll deconvert. Then when they get older and they need it again or sell the house and somebody else moves in, they will reconvert.

**Mr Tilson:** That's the principle of it, yes.

**Ms Roll:** They have the flexibility. I don't know how many more new units will be created or whether it will just make the ones that already exist legal and allow for that flexibility. Sometimes you have a basement apartment, sometimes you don't, depending on your family situation. I really don't know whether it will encourage new basement units or not.

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**Mr Tilson:** My second question has to do with what appears to be, from your presentation, the major concern: dealing with shared facilities and the expedient removal of tenants who are causing problems. That has been raised today and has been raised through other delegations. We haven't really heard any philosophies about what that means, in other words, what that expedient process might be, other than simply saying, "We must have a process." Have you, with the groups you speak to,



or among your organization, any concrete thoughts about what that process might be to have a fair policy?

**Ms Roll:** I don't know how concrete the thoughts are. Like I've said, our expertise is more in the land use areas rather than the rights. But thinking of one particular housing arrangement I know of, it's a number of women who aren't particularly disabled in any way but older women who share a house. They share a kitchen and there are a couple of different bathrooms, but they share and they have their own rooms. If one of the people who's in the house is a real problem for the other four people who share that house, it's awful if you have to give them 90 days' notice and all the Landlord and Tenant Act stuff in order to get that person out. It really makes hell out of the other four people's lives.

The concern is that there be some body that has some impartiality, where you can meet to hear the tenant's point of view and the other tenants' point of view and find a way to resolve the issue, which will mean either some change in the household or that the person has to leave. But it's so the decision can be made before the entire process you have to go through with the Landlord and Tenant Act. I don't know what this impartial body would be. It would have to be something the province set up.

**Mr Tilson:** The other alternative would be that these types of facilities, certain types of facilities, be exempt, that the legislation simply wouldn't apply to them.

**Ms Roll:** That's a possibility. I'm not sure I have an opinion of one over the other right now. I don't know enough of the details.

**Mr Tilson:** That's the problem. I'm zeroing in on the shared facilities or those types of arrangements. That's a genuine problem once this bill is passed, because they now will have the full legal rights of a tenant, which in my understanding, depending on the process that's followed through the Landlord and Tenant Act, could take a month or more. If they're dangerous, if you're living in shared facilities, it would be unacceptable.

**Ms Roll:** I agree. If they're dangerous, you could probably criminally get them removed, because you could charge them criminally, but there are lots of other situations where it's not that severe. You may not get shot tonight, but it still is uncomfortable and you don't want the person there. My response is that it is something that has to be dealt with in terms of Bill 120, but I don't think it's sufficient reason to delay or not pass Bill 120; it's something that has to be worked out. The protections the tenants will get through the Landlord and Tenant Act are important, for the most part. There's the occasional problem tenant whom you have to find a way to deal with.

**Mr Tilson:** But that's the crunch. I'm dealing with the specific major concern you have. Your concern has been repeated by many people. As a member of the opposition, I'm trying to think of what is fair, because you have to think of the person who's being accused. They may be falsely accused.

**Ms Roll:** They may be.

**Mr Tilson:** If you could present the committee at a

later date with the proposal, we would appreciate it.

**Mr Mammoliti:** Do you think this bill is going to create a flurry of applications for basement apartments or applications for accessory apartments out there?

**Ms Roll:** No.

**Mr Mammoliti:** Do you believe there will be some?

**Ms Roll:** Yes, there will be some.

**Mr Mammoliti:** And if there are going to be some, that would mean there would be individuals who may be hired to do the plumbing and the electrical and to do the walls, if it's a garden flat. These people would be hired.

**Ms Roll:** Yes.

**Mr Mammoliti:** So Mr Tilson's argument that we're doing damage to the economy is false, in your opinion, that in essence people can get work out of this bill?

**Ms Roll:** I don't see that the two are mutually exclusive. I do not think this bill is detrimental to the economy, and some people will get work. Some people now get work doing the wiring on illegal units. I'm not sure there will be a lot more people getting work. I think the economy itself has to pick up a little before anybody can afford to do anything.

**Mr Mammoliti:** You're absolutely right about that, and for the most part the people who need to rent out a part of their house usually do it because they need the money and they're out of work.

**Ms Roll:** Exactly, in which case they'll probably put up the drywall themselves. But they will be able to rent the unit legally.

**Mr Mammoliti:** That's right. This is a tenants' rights issue, isn't it, a residents' rights issue. Mr Tilson, I believe, with his line of questioning today with other deputants, still hasn't realized that there are literally hundreds of thousands of illegal apartments out there and that means the tenants aren't being represented in any way in the form of legislation. This is a residents' rights bill, as opposed to what Mr Tilson would believe is a waste of time. Do you believe this will help the rights of tenants?

**Ms Roll:** Yes.

**Mr Gary Wilson:** You raised a couple of questions, first of all the educational aspect. Is that how you describe your organization, as an advocacy group?

**Ms Roll:** A volunteer organization. I don't have our constitution in front of me, so I'm not sure exactly how we do it.

**Mr Gary Wilson:** You haven't been asked recently what you people do.

**Ms Roll:** I haven't been asked today, no. Basically, part of what we do is advocacy, part of what we do is education, and part of what we do is empowerment of women.

**Mr Gary Wilson:** What sort of education would you see around this issue that you're asking for in your presentation?

**Ms Roll:** One of the things would probably be a more extensive kind of education project, such as the one this came out of. We went out to community groups and did



workshops with them, discussed the particular situations in their communities basically to try to convince them that residential intensification is not the mean, bad, awful thing they might think it is, depending on where they're coming from—What have they heard? What have they seen?—and try to help them look at things in a different way, that it might be positive for everybody. I'd see a lot more of that kind of thing.

Also, I would see that municipalities would have some sort of information sessions, information available to people who would want to convert or people just who want to live in basement apartments or accessory apartments. It would be nice if the province got in on the act too. Actually, the province does get in on the act, because the province funded this one.

**Mr Gary Wilson:** That's good to hear. By "this one," you mean What is Housing Intensification?

**Ms Roll:** The project we did last year, which this was part of. We're actually doing an extension of that this year, but it's not anywhere near enough to cover the province.

**Mr Gary Wilson:** But it's very attractive and a good model, I would think, for what other groups could do. I compliment you on that. What has been the reception of this? What has been the response in the community?

**Ms Roll:** The ministry re-funded us, so the ministry thought we did a good job. The community has been quite positive so far. We haven't been to a ratepayer group yet that has been as hostile as they can sometimes be. We're working up to the bull pit. We've met with more friendly residents' groups so far.

1620

**Mr Gary Wilson:** That is one of the issues when we talk about residents' rights. It's not only tenants but it's also home owners, to give them the right, where they don't have to be looking over their shoulders or feel that they're doing something illegal, as they are now in many communities, by putting a second unit in their house. They will have that right to do it for the variety of reasons—you mentioned some of them—a home owner would want an accessory apartment. It isn't only tenants who are looking for that opportunity but also home owners.

**Ms Roll:** That's very true. The difficulty is, with the organizations, the ratepayer associations, that sort of thing, sometimes they tend to be all of one mindset, which is very anti-everything. If it's not single-family dwellings on a tract of land in suburbia, it doesn't count, it's no good.

If you go into a ratepayer group that has that kind of mindset, obviously it's going to be an uphill battle to try to get it to look at things in a different way. Not impossible, I don't think. That's in line for this year's project, to go into those groups. So far we've gone to the groups that are already starting to think that maybe there are benefits to both sides as far as intensification goes. We're working up our courage.

**Mr Gary Wilson:** I'm sure you don't need to do that.

**The Chair:** The official opposition?

**Mr Grandmaitre:** Keep up the good work.

**The Chair:** Everyone's happy in the official opposition.

Thank you very much for coming. It's been an interesting presentation. We will be dealing with this bill clause by clause beginning the week of March 6, so that's the first time amendments can be made to the legislation.

GARY WILTON

**The Chair:** The final presentation this afternoon is from Gerry Wilson. Good afternoon, Mr Wilson. The committee has allocated 15 minutes for your presentation. You should introduce yourself again for Hansard and then you may begin.

**Mr Gary Wilton:** I'm Gary Wilton, actually.

**Mr Tilson:** I knew there was only one Gary Wilson.

**The Chair:** Our apologies.

**Mr Wilton:** That's all right. I was a member of a group home called Chai-Tikvah, a level 1 group home, 24-hour care, for five years between December 1987 and December 1992. I understand this legislation might have some effect on that type of group home.

It's important to have group homes like that for people with psychiatric disorders, many of them as adults who have lived rather isolated lives. What we call social skills, cooking or banking or even doing other things, they're not expert at that, including me when I moved out. Group homes prepare people to learn these skills and eventually move out on their own. They also provide a social atmosphere. They say a lot of people who have psychiatric disorders have to some extent isolated lives.

I think 24-hour staffing, level 1, is important because people will have problems overnight, medication or some disorder or a relapse in their illness, and it's nice to have somebody there overnight to take them to the hospital or to make a phone call.

I'm not an expert on this bill but I think it has to do with how you handle someone, let's say, who's violent. Can you ask them to leave, or what rights do they have? It's a complicated issue, but if you live in a group home with other people—and the one I lived in had eight members—if someone is violent or in some other way disturbs the peace of the group home in quite a dramatic way, there is a need to protect the other people. I realize they have rights too, rights to be heard and to give their case on the issue, but it's also important that people in a group home have a right to protect the safety of the other people in the house. That's really all I have to say.

**Mr Derek Fletcher (Guelph):** Thanks for coming out today, Gary. It's not the best weather to be walking around the street in, I know that.

When you lived in the group home, where there instances when some of your fellow roommates were violent or disruptive and had to be removed?

**Mr Wilton:** When I was there, not violence. Somebody had a drug problem. It wasn't like tomorrow he was ejected, but over time he was eased out. Street drugs, I mean, not medication.

**Mr Fletcher:** We've heard from a lot of people who think there should be a better way or a speeded-up way of being able to remove a person from a group home if

they're disruptive, if they're breaking the rules. How long do you think it should take? Not two years.

**Mr Wilton:** It depends what it is. For a real act of violence, somebody hitting somebody or worse, it would have to be quite immediate. You wouldn't like to live in a group home where you'd worry at night whether you're going to be injured.

Disturbances could be a lot of things, and under certain circumstances—I wouldn't want to push anybody out on the street. Due process. If you're with eight people and you depend on your safety or wellbeing, it's important that people have rules and that you're not in danger of any kind of violence or other disturbance. It's a very difficult thing to discuss. I don't want people being ejected for no reason or arbitrarily, but it's something you worry about.

**Mr Fletcher:** That's the fine line we're trying to find. It's a tough one. As tenants, did you get together and talk these issues over?

**Mr Wilton:** Oh, all the time, yes.

**Mr Fletcher:** And the person was always involved with it? Did the person who was breaking the rules get in on the discussion too?

**Mr Wilton:** I'm sure they would with their opinion, yes.

**Mr Fletcher:** That's a pretty good way to do things.

**Mr Wilton:** Yes, I think so.

**Mr Grandmaître:** Did you say you lived in a group home for five years?

**Mr Wilton:** Yes.

**Mr Grandmaître:** Are you still living in a group home?

**Mr Wilton:** No.

**Mr Grandmaître:** What about some of your friends you lived with for five years? Are they aware of Bill 120?

**Mr Wilton:** Probably not. If they are, they haven't told me. I wouldn't think most of them would be, no.

**Mr Grandmaître:** How did you get interested in Bill 120?

**Mr Wilton:** I just heard about it from social workers and just hearing about it. I thought it was interesting and that having been a member of a group home, maybe I could contribute something. Maybe not, but I thought it would be worth trying, just to give, whatever it's worth, my opinion on the subject.

**Mr Grandmaître:** I'm sure your contribution is well appreciated, because other group homes have come before this committee saying practically the same thing as you, that we have to find a way to accommodate group homes. I think the government should take note that it's affecting a lot of people. It's their responsibility to find ways and means to bring about amendments to this bill to respect people like you and your friends. Thank you for being here.

**Mr Daigeler:** Based on your experience, can you recall any time where you would say that somebody was unfairly dismissed from the group home?

**Mr Wilton:** No. There was one person, actually, who was on drugs, but he wasn't ejected immediately. It was over a month maybe, and something was found for him. It wasn't, "You're out tomorrow." In my five years, that never happened.

**Mr Tilson:** I appreciate your coming, because the delegations that have come forward have been individuals who have represented these group homes or these facilities. To my knowledge, you're the first who's come forward who has actually been a resident, and I appreciate your contribution to us.

You've just answered the main fear I have about whether someone is unfairly ejected. Now, of course, with Bill 120, if it's passed unamended, the individual who is being asked to leave—you hate to use the word "ejected," but who's being asked to leave for whatever reason—will have a lot of rights that he or she did not have before, and in due course he or she will find out about those rights. That's the real crunch of this particular problem. With the whole service group homes are trying to do, will it become more adversarial?

**Mr Wilton:** I've only been in one group home. I'm not an expert on all group homes. I wouldn't think a decision to eject somebody or ask them to leave or ease them out would be taken lightly or taken, let's say, for a minor disturbance like "You wouldn't follow the rules" or that you talk back to somebody. I don't think they'd eject you for that.

It's a very tough thing. People have rights. It's a fine line. If you can't eject under certain circumstances, as a member of a group home, if someone got violent—in the group home I was in, there were eight people—I'd find it very disconcerting to be there.

**Mr Tilson:** You put it in a nutshell. It's a complicated issue. On the one hand, you get concerned about that individual, for whatever reason. Maybe they didn't take their medication, maybe they didn't want to take their medication. I don't know. I will be the first to admit that.

**Mr Wilton:** That does happen.

**Mr Tilson:** The real issue is, will these types of facilities be able to operate as successfully as they have with the effect that Bill 120 will have on these types of facilities?

**Mr Wilton:** It will be harder, I think, and maybe less secure.

**The Chair:** Thank you, Mr Wilton. We really appreciate your coming here today.

This concludes the scheduled presentations for this afternoon's session. Tomorrow we will reconvene at 10 am sharp to listen to more deputations regarding Bill 120. The committee is adjourned.

The committee adjourned at 1634.





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## STANDING COMMITTEE ON GENERAL GOVERNMENT

**\*Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

**\*Dadamo, George** (Windsor-Sandwich ND)

**\*Fletcher, Derek** (Guelph ND)

**\*Grandmaître, Bernard** (Ottawa East/-Est L)

Johnson, David (Don Mills PC)

**\*Mammoliti, George** (Yorkview ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

Wessenger, Paul (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Miclash, Frank (Kenora L) for Mr Sorbara

Mills, Gordon (Durham East/-Est ND) for Mr Morrow

Murdoch, Bill (Grey-Owen Sound PC) for Mr Dave Johnson

Owens, Stephen (Scarborough Centre ND) for Mr Wessenger

Tilson, David (Dufferin-Peel PC) for Mr Arnott

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr White

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Luski, Lorraine, research officer, Legislative Research Service





## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 9 February 1994

**Standing committee on  
general government**

Residents' Rights Act, 1993

Chair: Michael A. Brown  
Clerk: Franco Carrozza

# Journal des débats (Hansard)

Mercredi 9 février 1994

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Président : Michael A. Brown  
Greffier : Franco Carrozza



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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 9 February 1994

The committee met at 1005 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

## ECUHOME GENERAL ASSEMBLY

**The Chair (Mr Michael A. Brown):** Good morning. The business of the committee is to deal with public deputations in regard to Bill 120. Our first presentation this morning will come from the general assembly of Ecuhome. Good morning. The committee has allocated one half-hour for your presentation.

**Mr Forrest Sandberg:** My name is Forrest Sandberg. I'm chairman of the Ecuhome general assembly, which is basically a fledgling residents' association. This is Mur-taza Zavery, a resident.

**Mr Sandberg:** The feeling among the residents of Ecuhome is they're concerned about three things under this bill. They're concerned about being able to maintain dry houses. We have a large percentage of recovering addicts and alcoholics and we worry about being able to keep a dry house under the Landlord and Tenant Act.

The other thing we worry about is the definition of "violence." This is a safe house. We have 30% or 40% women. We have a lot of people in recovery. We have a lot of immigrants and minority members. The idea of the place is to make it safe. Our toleration of violence now is very low. The threat of violence, leaning over somebody or making threatening motions, is considered violence. We don't know if that would be considered violent under the Landlord and Tenant Act.

The other thing we'd like is fast-tracking, which is recommended in the report—I forget the name—that this bill came out of.

The residents aren't totally opposed to the Landlord and Tenant Act but they are worried about those, because from a resident's point of view, those three concerns—I don't like to talk for other people. Unfortunately, the woman who was supposed to come here today didn't show up. But I can talk for one group, the recovering addicts. They spend a lot of money. I didn't go to treatment, but most of us head into treatment. What you need is, if you're an alcoholic or have any abuse problems—I'll give a personal example.

In June, I've been clean and sober five years. We had somebody who came into the house who was actively using. We had another member there who had about six months. This person actively used. Today we don't get rid of them quickly. There's a long process. Finally the other resident left because he didn't pay rent. He wasn't

evicted; he just ceased to pay rent because the money was going into the substance. When we lost him, we lost the other roommate, because the use around him just triggered him. If you want to quit drinking, for a while—after a certain amount of time you can sit next to somebody who's guzzling it down and it's okay, but during that first little period when a lot of residents come into Ecuhomes, you want to be in a safe environment. It sounds foolish, but you want to, at least in your own home, be in a position where you can pretend it doesn't exist. You want to be able to walk through your door and pretend it doesn't exist.

So for the recovering addict, we would like very much to at least have it specified that we're allowed to have dry houses. Unless that's made specific under Bill 120, we're a little bit worried: How can you evict somebody for a totally legal act? Drinking is legal and that means they can come in and drink. All our houses aren't dry, but there's a high enough percentage of them that Ecuhome is known as a safe haven.

I have a letter here from Mark Jackiw. He is a recovering addict.

"Dear Mr Carrozza:

"As a concerned resident speaking on behalf of Ecuhome Corp, I would like to address a number of issues regarding the proposed enactment for Bill 120, to fall under the Landlord and Tenant Act.

"Realizing that this amendment may pass shortly, it has been brought to my attention that Ecuhome Corp and its residents will be affected immensely on disadvantaged grounds once this bill should come into effect. Foreseeing this possibility, I've been appointed to deputize on a residential standpoint an accostment—I haven't read this yet and I don't censor what I get—"of disputes over Bill 120, which if passed, would greatly disrupt the present arrangement which Ecuhome Corp operates under, the Innkeepers Act.

"Ecuhome Corp, a housing organization established to meet the needs of individuals with various (problematic) backgrounds, has up until now, managed to operate such provisions without due constraints among its affiliates. Should Bill 120 pass and likewise interfere with the original plan Ecuhome Corp intended to administer several years ago, not only will our administrative body fall short of its goal, but many of our residents will be afflicted through this change in policy as well.

"Since many residents see Ecuhomes as a presently safe and reliable environment for accommodating a number of life circumstances, certain aspects prescribed under Bill 120 have led to an array of issues over which a majority of residents have expressed concern. These issues of concern range in priority and are based on the mutual understanding of which current Ecuhome residents presently abide to. The three most outstanding concerns stipulating over Bill 120 are issues of (1) sobriety: the

need to maintain and provide 'dry residences'; (2) violence and/or intimidation: the need for a safe environment with the inclusion of a rapid resident termination system and (3) adequate support system: the need for basic counselling services and staff intervention.

"Under present conditions, Ecuhome Corp currently manifests such requirements under the Innkeepers Act. Concurrently, the smooth acquiescence between these boards has proven itself through a solid track record to be a worthwhile cause towards alternative housing for needy residents. This arrangement has as well demonstrated its benevolence in many regards, right down to the residential level. Should it be altered to such an extent to conform to the Landlord and Tenant Act, our good intentions can only fall short of its intended purpose.

"Among other concerns, should Ecuhome Corp eventually fall under the Landlord and Tenant Act, requests have been set forth to at least amend Bill 120 to compensate for the necessary adjustments in which a lot of Ecuhome residents will eventually have to deal with. The main request here is the application of Dr Ernie Lightman's fast-tracking report which suggests a feasible alternative towards the prompt eviction of any resident whose behaviour does not conform to said guidelines.

"And lastly Mr Carrozza, I urge you once more to take in the considerations of many concerned residents of Ecuhome as well as their staff, the issues brought forth in this deputation. All we ask is for your understanding in which Ecuhome Corp may run freely and purposefully under its present affiliation, and to conduct its current affairs openly with reason to believe, that the Landlord and Tenant Act would be an unsuitable enactment towards our cause. With enough said, we'd like to thank you for your time and considerations—we look forward in allowing our organization to run as it was originally intended to.

"Mark Jackiw, resident."

Those were his opinions.

I'd like to introduce Murtaza Zavery.

**Mr Murtaza Zavery:** I'm originally from Kenya. I'm a landed immigrant. Since I've come to this country, I've lived with Ecuhome. I'm going to give a very short presentation from the standpoint of a landed immigrant.

First of all, I'd like to take this opportunity to thank you for giving us this chance to speak out about our concerns on Bill 120 the way it stands.

What is Ecuhome? It is a non-profit organization partly funded by the Ministry of Housing. It comprises various aspects of society who probably have come to this kind of setting because of one reason or another, be it a drug addiction, financial or just nowhere to go. Ecuhome has provided us with this facility.

The main objective of Ecuhome is to provide us with a safe, affordable and clean environment. As an immigrant, Ecuhome has provided me this stepping stone to enter into Canadian society. It has not only provided me with an affordable, clean environment, but also a very safe one. As a landed immigrant, this is very important to me, because if I come to a country, I would like to be in a very safe environment, to have a very comfortable start.

My concern about Bill 120 is mostly from a standpoint of violence, especially coming from an environment where violence is not as bad as I've seen here. Ecuhome has so far provided me with a very safe environment, almost like, I would say, in a non-violent environment. What I'm afraid of is, what happens if Bill 120 passes and there's no consideration for violence? My recommendation to the committee is that I would rather see Ecuhome stay under the Innkeepers Act, because this way we can have some leverage as to how to deal with violence.

The fast-tracking idea is not bad, but for now I would rather have us stay in the Innkeepers Act. That would be my recommendation to the committee.

**Mr Bernard Grandmaître (Ottawa East):** Your presentation this morning has been heard by this committee a number of times. I'm not saying you're being repetitious, but we've heard the same concerns over and over again. We all agree with you that some amendments, some changes, are needed to make Bill 120 more accommodating to Ecuhome or any other similar groups as yours.

At the present time we agree with you that we don't have any definition of "violence." You mention the rapid termination process: How can you get rid of or evict people who are causing a disturbance? At the present time, what is your policy with disturbance?

**Mr Sandberg:** We're residents so our policy within a house is different. Within the house basically we have a lot of very vulnerable people. Most of us, not all—I can't speak for the immigrants—of the Canadian-born have come from very dysfunctional families. Very quickly, what you try to do is you get a house. I'm in a very multicultural house. We have one person who, if you yelled at him, would not come home for a week, just for the yelling. When you come into the house and you're the first new one in, you'll get explained that, in this case, stay away from X. In other words, be careful; he's very shy.

I know it sounds very much anti-government, but to a certain extent the houses control a lot of it just from pressure from within the house. If violence does occur or intimidation does occur now, what we'll do presently is that if everyone agrees, all other residents—in our place it would be five against one—that there's been violence, we'd probably vote. That constitutes a final warning. A contract is written up with the help of the staff in that case to put it on record. Then if it occurs again, we'd just have to stop and ask that a recommendation be done. Most of us, like I said, the North Americans, have come from dysfunctional families, and actually it's one of our first experiments of trying to form a functional family. I guess we're weird, because it's not a boarding house; it's more like a family where everybody goes their own way. You know, none of us have the same life, but we tend to watch TV together, we tend to know what's going on in each other's life.

1020

**Mr Grandmaître:** How often do you have to call in the police because of disturbance?

**Mr Sandberg:** I've lived, I guess, close to two years



at this Ecuhome, and when I first started recovery I spent six months at another Ecuhome. I'm from the west end. I'm from Parkdale. My home's in Parkdale. We've never had the police come for a disturbance. The only time the police ever came to our door was when I, on my bike, I got hit by a car and they took me home.

**Mr Grandmaître:** How would you like to see this new amendment you're asking for, a fast-track policy, work?

**Mr Sandberg:** That's above me, once you get into the legality, I'll be honest. What we'd like is something that would at least, within a month to a month and a half—in other words, make a reasonable time. I'm an ex-addict. I've played the game. I went from being an accountant to living downtown and playing the whole addict bit. I've played the game of how long I can stay in a place. We just want to avoid that. Speaking as an ex-addict, and that's all I represent—I'm sorry Heather didn't show up, because we're missing one large group—we knew the rules, and addicts will manipulate the rules very well. The difficulty is we just want some way to shorten that so they can only manipulate for a while, because it could take up to six months to evict me when I was in my heavy usage.

I can't quote it now, but I could quote you about how long you have to file an appeal. So you file it on the last day so it will take longer. You can actually flip it over once. We just want to avoid that syndrome. We want at least the right, possibly, looking at the Lightman report, to move somebody out of a house; maybe not to evict them, but maybe to move them from one house to another.

**Mr Grandmaître:** Maybe you should become the advisor to the minister.

**Mr Sandberg:** I worked on her campaign once.

**Mr David Johnson (Don Mills):** I would like to thank you both for your deputations. I think there's a message here of real experience, a practical message, and I certainly hope everybody's listening to what you're conveying today.

I would take it that there are rules with regard to having alcohol or drugs. Are they prohibited?

**Mr Sandberg:** By the house rules they're prohibited to a certain extent. You're not prohibited from going out and getting drunk. You're prohibited from drugs; that's illegal. So I'll just talk about alcohol. We're in a dry house. It's funny; I'm the only one in recovery, but most of the other five represent five continents, and most of the other residents, although I'm the only one in recovery, prefer a dry environment. The thing we have is that you can go out and you can get falling-down drunk, but we ask that you don't stay in the common area. Our house rule is that if you come in drunk, you go right to your room.

**Mr David Johnson:** I just wondered, from your experience as a recovering addict, particularly perhaps during your first few months when you were recovering—you say you've been clean now for five years—what impact it would have on somebody who's just starting out in the recovery process if somebody in that

common area, somebody living in there, was using drugs and if there was no way to get that person out.

**Mr Sandberg:** There are two ways that triggers. It triggers you very much. It's hard to explain, but again we'll use alcohol, because drugs fall under illegal acts. Very few terminations come over drugs, because nobody can prove it. You know, an addict can spot it, but how do you prove it? But most addicts also drink; that's why you want to have the right to have a dry house, if they start breaking the rules altogether. No, for that first little while, it's a trigger. It's hard to explain. Right now, I don't care; you could all be drinking and it doesn't bother me. Actually, for the first six months I didn't stay away from it. In other words, I'd be around people. But then it took me about two years to be able to go back into bars to listen to bands, because it takes a while to get rid of the hunger. It's hard to explain.

**Mr David Johnson:** So it's going to be very difficult for you if there are other people there. We've heard other deputations, and you've mentioned too, that drugs are illegal, but can the police handle that? I mean, you say you haven't had to call the police, but I'm just wondering—we know drugs are illegal, but lots of people use drugs, and in a safe environment like Ecuhome, if people were using drugs and the police were called in, would that solve the problem? I don't think so.

**Mr Sandberg:** No. You see, violence is as much of a trigger. It's strange; I was an accountant, but before that I was in Vietnam and I was a combat soldier over there. When I went back to the streets, I found the violence fit right in. The quickest way for me to relapse is to be around violent behaviour and participate in it, even in a defensive posture, or around booze. What happens is that most addicts who use, use the attitude and bring in the violence. That's why we need a definition of violence that isn't as strong as you have to hit somebody. They'll bring in the intimidation factor from the street and they'll drink. Once they break one rule, they tend to get on—addicts are a little bit self-destructive. We're great manipulators, but we also, in our active use, tend to be self-destructive. We tend to want to fail, so we tend to push.

I've never seen anyone kicked out. In my house, when I came into it, there were a lot of drugs. It's a Parkdale house. It got cleaned up. Not one person got evicted for drugs. Basically, they all left because of other things; they wouldn't pay rent or they'd start coming home stone drunk. That's why the dry rule is there.

**Mr David Johnson:** Again, you indicated the process that you go through for getting people out, and it's not simply a matter of a strict, quick eviction. There's a process, particularly the one you described. In terms of violence, it's my guess that this kind of process, the kind of process you have in place now under the Innkeepers Act, I guess, as you've indicated, is probably one that works. But for violence, for example, if the Landlord and Tenant Act comes in and you can't go through that process, and the Innkeepers Act no longer applies, and you're sort of, "Leave it to the police to be able to sort this out," it's not going to work, is it?

**Mr Sandberg:** The thing is, if I looked over at Janine and said, "Nice butt," by our definitions in the house,



that's violence. That's an ex-roommate. In other words, our tolerance of respecting the boundaries of each other is much lower than could be proven in a court of law. If I leaned up against and just put a hand out like this and stopped her from going somewhere, our house has a definition of that as violence. If she says, "Let me go," and I just put my hand there—you know what I mean—I haven't touched her. I don't know how that could go through a court system, but in the house we understand that if I do that to Janine—our toleration of violence is below what the legal definition is.

**Mr George Dadamo (Windsor-Sandwich):** As someone looking into the home from the outside, I wanted to explore an area, that where you said, "Like this," with your hand movement. There must be some sort of closeness forged between people who are living in the house. I guess it would be pretty tight-knit. Is there any time when you're able to talk somebody into not staying without having to go through this whole process?  
1030

**Mr Sandberg:** Actually, the houses have developed personalities and you tend to fit into the personality. As far as tight-knit's concerned, none of the people in my house do anything outside together. A couple of residents used to but one of them moved. Basically, it's a friendly atmosphere, and when it ceases to be friendly, without violence, people don't tend to want to live there. We watch TV together; we share the TV. I guess the best word I can put on it, and I can't define it, is respect. In my house we have the three major religions, so you find very little bacon cooked. It's actually a bunch of people learning to live together with respect.

**Mr Dadamo:** Is there some sort of a buddy system where you tend to take care of each other?

**Mr Sandberg:** If it's asked for. We also tend to stay out of each other's lives, but if I went home and said I was really hurting—I remember a friend of a roommate of mine went for a job, got to the second interview and didn't get it. I remember spending some time talking to him and saying, "At least you got this far, which is better," but nothing formal.

**Mr Dadamo:** You've said that, of course, alcohol and drugs are banned from the home. We all understand that. But when someone comes home intoxicated in the middle of the night, does it once, two or three times, or perhaps more, is there some sort of mechanism where you guys can get this person to stop or to keep it away? How does that affect everybody else, if it's an ongoing thing?

**Mr Sandberg:** It doesn't happen. It's hard to explain, but it's like the six of us together—and I'm leaving the office out of it; I'm talking about inner-house dynamics. I don't represent the office. The houses get an atmosphere. It sounds funny, but once you start doing the respect thing—there's one person in my house I don't like. There's a strong personality clash, whatever you want to call it, there, but still the respect thing means that I remember a couple of days ago walking past the stove—he'd left the food on—and going in to tell him. It's not so much that we have to like each other as much as that we have to respect each other and respect the differences.

I've been lucky. In the two houses that I've been in it's worked and there's been a very strong bond of self-respect. Actually, if I went out drinking, I wouldn't come home every night, just because of that. I can only speak for the two houses that I was in. The atmosphere worked in those two houses.

**Mr Dadamo:** You talked about violence in general terms. Did anything ever happen to you personally?

**Mr Sandberg:** No. Again, in the two houses I was in, we've never had violence because the verbal and the understood toleration's so low. Murtaza, has violence ever happened around you?

**Mr Zavery:** No, I have not come across any violence. I've heard of some other houses where it did happen, so I'm kind of leery of that.

**Mr Stephen Owens (Scarborough Centre):** My question is with respect to the process that you utilize as a house when a decision needs to be made around asking somebody to find accommodation elsewhere. Can you describe that process for me?

**Mr Sandberg:** Okay. Again, each house might be different but I think this is a general thing. First of all, the person would probably be approached about the behaviour by one person, the one who can approach him the easiest.

**Mr Owens:** How is that determined?

**Mr Sandberg:** We know who gets—

**Mr Owens:** Interpersonal?

**Mr Sandberg:** Interpersonal. It's like if it was a person I'm not getting along with, I definitely wouldn't approach this person. The closest to him would be approached.

The second step would be a house meeting. Now, this isn't with staff; this is totally within the house. It would be brought up. If it still remained a problem, we'd have another house meeting. The thing is that to terminate somebody like that you need, in our case, five votes out of six.

It sounds dictatorial but, remember, we were all on the street when we came in. Like I said, we're all different, we go our own ways. In our house we've never had an episode where everybody would agree.

*Interjection.*

**Mr Sandberg:** Yes. In other words, because we've been on the street, there's no way we want to put somebody out on the street. But our last step would be to go and have the house meeting, say what we're going to do and tell them that all five have voted that this is unacceptable behaviour. It's never gone that far.

**The Chair:** Thank you very much for coming this morning. We appreciated your presentation. For your information, the committee will be considering this bill clause-by-clause during the week of March 6.

Members would note there's a change in the printed agenda for this morning in that Gibson and Associates are the next presenter. Apparently the Jane-Finch Community Ministry has cancelled at the last moment, therefore we are attempting to move Gibson and Associates up one. Are they here? We'll take a five-minute adjournment.



*The committee recessed from 1036 to 1041.*

ONTARIO ASSOCIATION OF RESIDENTS' COUNCILS

**Ms Mary Ellen Glover:** I'm Mary Ellen Glover, the executive director of the Ontario Association of Residents' Councils. With me I have Marie-Louise Lynch, who is a resident in a retirement home, Rideau Place in Ottawa.

Both the Ontario Association of Residents' Councils and Rideau Place have submitted written briefs to the committee. I think that since the committee might have some questions they would ask somebody who actually lives in a retirement home, I'll keep my comments short and turn things over to Mrs Lynch.

As an association we have always said that there should be some form of regulation applied to retirement homes. But we participated in the Lightman review and we participated in some work that was done by the Honourable Dave Cooke when he was Minister of Housing, and our association's stand has always been that regulating retirement homes under the Landlord and Tenant Act and rent control will not provide residents with sufficient protection, especially sufficient, adequate, accessible protection.

Residents in retirement homes are generally very elderly, sometimes they're in very frail health and they don't have access to a lot of services. It would appear that residents are being offered a method of recourse against excessive or unfair rental charges that very few would be able to take advantage of. Working one's way through the Landlord and Tenant Act and the rent review process is very complicated. It's difficult to believe that an individual or even a group of frail elderly persons who have limited physical and emotional energy and finite financial resources will be able to work their way through the process without a great deal of assistance.

Our actual experience has shown that residents have required substantial legal assistance to access this method of redress. Now, we ask the committee, who is going to provide this assistance? Will there be advocates, for instance, specially trained to do this?

The other thing about the landlord-tenant situation is that it's generally not a personal one. The landlord may be a large corporation never seen by the individual. The retirement home situation differs in that relationships between the residents and the staff are often well established and often warm and friendly. Using the Landlord and Tenant Act to resolve disputes may lead to the development of a confrontational atmosphere between the operator and the residents.

Another question we have is, will residents be subjected to extra charges, and can they afford these charges? We understand that by delinking service and accommodation, some or all of the service portion of the package may be subject to the GST and possibly to PST. This could result in financial hardship for some residents. It will increase the residents' monthly cost but will not bring the residents any additional benefits. Because of this, many residents may be forced to deprive themselves of some small comfort to meet extra expenses that they have incurred.

In long-term care reform the government presumed that residents of nursing homes and homes for the aged could pay \$38 a day. It's proving that this is not true. In the instance of retirement homes, the government will not be there to take up the slack. The individual will be forced to pay up or move. Again, it would appear that the government is not really aware of the amount of money that is available to frail, elderly persons, most of whom are on fixed, limited incomes.

We also wonder if this legislation will provide residents with the appropriate quality of life, safety and security. Many seniors enter a supported living environment so that they will have peace of mind. They wish to have assurance that help will be at hand should they require it. Regulations under the Landlord and Tenant Act could prevent staff from entering a room to assist a resident in distress.

Many seniors enter retirement homes to be with their peers, people of the same interests with similar physical and mental abilities. They often find it distressing and depressing to be faced on a daily basis with people who are aggressive, confused or severely physically disabled. These regulations could prevent owner-operators from moving a resident who has become disruptive and is detracting from the quality of life of other residents.

Again, many residents want to make their new home their own and ask that the owner make changes to the living quarters to accommodate them. These regulations could prevent the owner from making changes to a resident's quarters to suit that person's wants or needs. As well, under this legislation any changes could be too costly for a resident to afford.

We ask how this legislation will provide the resident with protection from abuse. A main concern of our organization is that regulation under the Landlord and Tenant Act will not provide sufficient or appropriate protection from physical, emotional or even financial abuse to residents who may live in a facility that is not well run. Operators may no longer have the opportunity to throw a resident out on the street with no notice, but this is not the only type of abuse that residents potentially face. Abuse can be more subtle. It can be quite simply brusque, uncaring treatment from the staff. What is to prevent the operator from lowering the quality of the services, for example, providing meals that are not nutritionally suitable or simply not palatable? Will residents have the protection of a bill of rights such as currently is in place in nursing homes and homes for the aged?

Will this legislation prevent inappropriate placements? Unscrupulous operators sometimes may accept just about anyone to fill beds and maximize profits. This is a personal story and it's a true story. About two years ago an elderly neighbour of mine was placed in a retirement home by his family. He did not wish to leave his home of many years. However, he was suffering from a brain tumour and was becoming very forgetful. He did not like living in the retirement home and began making a series of escapes. At first he would make his way back to his old house and one of the neighbours would usually rescue him. As time progressed and his condition worsened, he still wandered. However, he no longer remembered his



old home and was found several times in distant parts of the city and returned eventually by police. Finally, one day he wandered for the last time and police eventually found him in the Don Valley, but it was too late for him. He was very obviously not living in a place that could care for him appropriately.

We also wonder how this legislation will ensure that operators maintain staffing at an appropriate level to protect residents. Will there be any guarantee that operators will have the appropriate number of qualified staff available to care for residents? We often see the situation of a home with smokers, people who are on oxygen, and wandering residents all in the same building with only one health care aide on duty at night. What would happen in case of a fire in a situation such as this?

In conclusion, we would like to comment briefly on the consultation process. In the development of Bill 120, this process seems to have been almost non-existent. It does not appear that the government has asked consumers what they want changed and how the system should work. It would appear that the government has depended heavily on Dr Lightman, who made recommendations which he felt would help people. While we are certain he was well intentioned, his report reflects his opinion and the recommendations are his. It does not reflect the consensus of a group and in reality ignores the needs of a good portion of the senior population who live in retirement homes. He has actually put forward recommendations which we feel could harm rather than help these people.

1050

The consumer is coming away with the feeling that this whole process is just a sham, that we are giving but not getting, that the decisions have already been made and this is all simply window dressing.

As an organization we continue to recommend that the government work with the retirement home industry to develop standards to govern all aspects of life in retirement homes and provide appropriate protection to the residents who live in them.

Mrs Lynch, do you have anything that you would like to say now?

**Mrs Marie-Louise Lynch:** Do you want to ask me some questions?

**The Vice-Chair (Mr Hans Daigeler):** Yes.

**Mrs Lynch:** We have submitted a brief, which I'm sure you have seen, which I actually prepared. One of our residents is the Honourable Stanley Knowles and he is very concerned about this. He wanted to make certain that a copy of our brief got to the Premier, so he wrote a letter the other day to the Premier. I have several copies of the letter if any of you would like to see it. He is very happy at Rideau Place and very concerned that the present setup might change.

I think one of the nicest things that Trudeau ever did was appoint him a privy councillor. As you know from looking at the evening news, he's there practically all the time. We have a car service for dental and medical appointments, shopping, banking and so forth, and it takes him up to the House every day at 1:30 and picks

him up at 4. He said, "I don't want to lose that."

I have a few copies of that letter if you would be interested in seeing it.

**The Vice-Chair:** Leave that with the clerk, please.

**Mrs Lynch:** I am one of the original residents of Rideau Place. I moved in the day before it opened. We give one cheque a month and it's all-inclusive. That includes everything, meals, all these things. They're all factored into the price. Since it's all-inclusive, we don't pay GST on anything. If we come under the Landlord and Tenant Act, their costs will be greatly increased, because they will have to have more people in the office, and some things will come under GST.

I'm in the fortunate position that I have an indexed federal pension, but quite a few of our people are widows whose husbands had very good pensions but they're not indexed. They had GICs and now they're really quite in despair about what's happening. This is a great concern for many of them, and even of course for those of us who have indexed pensions, because I think it was increased this last time 1.8%. All those things are factored in.

There's an old saying, "If it works, don't fix it." Rideau Place works very well. In the original contracts, when we first moved in, it would be increased by whatever the indexed pension rate was by the federal government. That year it was 4.72%, in 1987. They did that for a year or two.

One year, a few years ago, it was 6.8%. The accountant from Metcalfe Realty came to see us and he said, "Our increases weren't anything like 6.8%." I happened to be president of Rideau Place council at the time. He came to the executive and he said, "If you people approve, we would like to know your reaction to this: We would like to increase it just by the increase in our own expenses." He said the year we increased to 6.8%, increases were slightly less than 4%. So ever since then, that's what they have been doing. It's done in August of each year, and in August they increase it by whatever their expenses have been. It has been the last couple of years a few points below what the indexed pensions were.

It's a very good place. We're not unique exactly, but we are a private investment of Metcalfe Realty, which is a real estate company in Ottawa. They don't own a chain of these things; they own just Rideau Place, as a matter of fact.

There's some feeling that if we come under the Landlord and Tenant Act we won't be able to change people around in different categories.

A woman came there about, I would say, a year and a half ago in the early stages of Alzheimer's. It was very sad because the woman was only in her mid-70s, which I consider young. This woman didn't know where she was or anything, but physically she was strong and quite an active and tall woman. Not long ago, her condition worsened very much and she suddenly thought she was back in boarding school. It's a large building. She hated boarding school so she'd been trying to escape. I could never catch up to her. You'd have to run pretty fast to catch up to her. Because of this, not being under the Landlord and Tenant Act, we could get her family



together and we were able to get her out for her own safety and everything else. She needed constant care, which of course we don't give.

Recently, about a year and a half ago, we made the first floor into not a nursing home but for people who need a little more care, people who have sitters and this kind of thing. Everything is done really to make us happy. We have very good meals and we have an excellent table d'hôte; à la carte as well, if you don't like what's there. We have about four or five choices, which is really pretty good. I would consider it a very good facility.

I was for 15 years a member of the National Parole Board so I didn't have much to do with luxury places like that, but I certainly have eaten in every penitentiary in the country. You wouldn't dare eat in a maximum, because you don't know what they're going to put in the food.

Rideau Place is really a very good place. I'm sure there are lots of other places like that. I'm fully aware—and this was something that bothered Stanley; he's fully aware too—that there are a great many seniors in Ontario who are not in that happy position. As he said, they're victims of greedy, unscrupulous landlords in these rooming- and boarding-houses. They have no security, and they do need security like this.

If I'm running a place like that and you come and offer me a good price for it—you're going to tear it down and put something there—I say: "Fine, lads, you get out. We'll give you two days' or a week's notice. Put your possessions in a garbage bag." That of course is not going to happen at Rideau Place.

**The Vice-Chair:** Thank you very much for both your presentations.

**Mrs Lynch:** Does anybody want to ask me a question?

**Mr David Tilson (Dufferin-Peel):** I have a 90-year-old mother and she considers herself quite young. She has lived in a retirement home in Orangeville which is connected to a nursing home. She recently had some health problems and it was felt best that she move to the nursing home. She didn't want to move. Now if she could find a good lawyer—

**Mr Owens:** Notice she doesn't ask you.

**Mr Tilson:** She could hire a lawyer to challenge that move and force her to stay, because she's now a tenant. That's the problem.

**Mrs Lynch:** That's right.

**Mr Tilson:** I think the real issue that you're raising and which most of the retirement homes are raising is, when you look at the definition of "rent," it seems to include all compensation. This seems to be your major concern when you look at the housekeeping and the activities and the health care and the personal services which may increase at a different rate than rental accommodation.

**Mrs Lynch:** Yes.

**Mr Tilson:** My question to you is, will the residence be able to operate, providing the same service that it has,

once Bill 120 is passed?

**Mrs Lynch:** We don't think so, and it would be more expensive.

**Mr Tilson:** The law won't allow it to be more expensive.

**Mrs Lynch:** Yes, that's right. We'll have GST on meals and on all sorts of things and probably on this car we have. This is an all-inclusive package. We pay a quite substantial amount each month. Until very recently when I had a very bad cold, I never saw a nurse, and that's probably the most expensive part of it. Then there are people who never use the car. They don't go out or they're not able to use it. They really have reached the stage where they need Para Transpo. An ordinary car won't really accommodate them. But that is all factored in, so you are paying really for things that you're not using, but it doesn't bother you because you like the comprehensive package.

1100

**Mr Tilson:** You're paying for crafts, you're paying for entertainment.

**Mrs Lynch:** Yes. So far, whenever we've had to move somebody who needed a more caring facility, we haven't had any problem. They weren't as independent as your mother. We have a conference with their families, of course. The family of this woman realized that for her own safety—because we are on the bank of the Rideau River. There is a brick fence, but this woman was pretty agile. She might have been able to get over it even. But there hasn't been one other incident like that. Of course, if you've reached the stage where you need a sitter, that adds to the expense too, because you have to pay the sitter. So rather than do that, they've decided, "Well, I'd rather go to a nursing home where I have complete physical care."

**Mr Tilson:** In your facility, does the staff enter the rooms to assist people?

**Mrs Lynch:** Oh, yes, at all times. They just come in any time they want to, just knock on the door and come in.

**Mr Tilson:** It is my understanding if this bill passes they won't be able to do that.

**Mrs Lynch:** And there are quite a few people whose medication is controlled. The nurses handle it and bring it to them. Some people are on puffers. Apparently it's very bad to use puffers too often, so they took control of the puffers and they bring them to them four times a day and so forth. We have several RNs on our staff, but we have other people who are nurses' assistants. The nurses bring the medicine around. Then other people need a hot drink and all these things, so that's all included. I'm not in that category yet, thank God, so I don't have anything to do with that, but it's there.

We have maid service. We don't have to make our beds. We have a suite, a room and a bath. We all have a private bath. We have what they call a complete cleaning once a week. The beds are changed, we have fresh towels every day, the bed is made. We don't have to make our own beds. That's done every day.

**Mr Gary Wilson (Kingston and The Islands):**

Thanks very much for your presentation. Unfortunately, our analysis of the bill isn't quite the same as Mr Tilson's. Ms Glover, you raise the issue of, if it ain't broke don't fix it. Unfortunately, it didn't work for Mr Kendall, whose death sparked—

**Ms Glover:** I didn't say if it ain't broke don't fix it. What I said is that as an association, the Ontario Association of Residents' Councils very much thinks that there should be some kind of regulations governing retirement homes, but we question whether the Landlord and Tenant Act is the appropriate place to do it.

**Mr Gary Wilson:** As you know, Mr Lightman in his commission strongly recommended the extension—

**Ms Glover:** We question also whether Dr Lightman is completely correct or not.

**Mr Gary Wilson:** That's true. He did an analysis though and received over 200 submissions and toured the province.

**Ms Glover:** We also question how much attention he paid to some of the submissions.

**Mr Gary Wilson:** He did find not only abuse in homes that were considered to be substandard or at least lacking in care, but also even in luxury retirement homes he found cases of abuse, which the Landlord and Tenant Act can deal with. In fact, the cases that you raise, it's unclear how the Landlord and Tenant Act is going to affect that.

For instance, Mr Tilson seems to think that people are going to have to give 24 hours' notice to come in to give care, care which the people are in the homes to receive. It just doesn't make sense. The Landlord and Tenant Act comes into play only if there is a problem that arises, that is, consent is the order of the day in most of these places. That's why people are in the care homes, to receive the care, and it's well set out.

There have been incidents of abuse, and certainly Mr Kendall's death is a flagrant example of that, a very unfortunate example. This is why we're trying to bring some regulation into it through extending to all tenants the same rights that tenants in other accommodation have.

So as I say, it's not clear to me how the Landlord and Tenant Act is going to affect the daily living in Rideau retirement home.

**The Vice-Chair:** Did you want to respond?

**Ms Glover:** No.

**Mr Gordon Mills (Durham East):** Thank you for your presentation. I've been looking at this presentation. I see that you say there are a lot of army officers in there, and naval officers. I was only a sergeant, so I'm left to wonder if I ever could be admitted in Rideau Place. Having said that, what I'm trying to understand is, supposing I were to gain access to Rideau Place—

**Mrs Lynch:** It would be much more expensive for us, for one thing.

**Mr Mills:** Just suppose I got in there, just suppose in my imagination, and I liked it so much, but something happened to me that somehow or another I was not desirable to be there. What's the process that you use to get rid of me now? How do you get rid of me?

**Mrs Lynch:** How do I get rid of you?

**Mr Mills:** Yes. I know you might want to.

*Interjections.*

**Mr Mills:** They want to know.

**Mrs Lynch:** The way we got rid of this woman two or three weekends ago, we got her family to come and see us. We told her that we weren't geared to watching her 24 hours a day and that for her own protection she should be in a nursing home.

**The Vice-Chair:** I'm sorry, Mr Mills, but that concludes the time.

**Mrs Lynch:** I don't know of the case you were talking about, Mrs Tilson; I don't know about it at all. But there's nobody being—

*Interjection.*

**Mrs Lynch:** Oh, that was it, your mother. That was it, yes. Oh, I thought this was somebody who was being abused. Yes, yes, yes.

*Interjections.*

**Mrs Lynch:** We've never had that. Nobody has ever been abused in Rideau Place, I can tell you that. I warn you, nobody ever has. That's right.

That's going to be a problem. Which retirement home was your mother in?

*Interjections.*

**The Vice-Chair:** Mr Grandmaître would like to ask a few questions. About three minutes.

**Mr Grandmaître:** I must declare a conflict of interest. Rideau Place is located in my riding, Gord. We can find a place for you.

I had the opportunity of visiting Rideau Place three or four times. Recently, three weeks ago, I had lunch with Mrs Lynch and the executive council. The brief before us today describes Rideau Place to a T. I like this line, "At Rideau Place we have found a satisfactory solution and we all pay in full for the cost of living here, without being subsidized in any way by any level of government—municipal, provincial or federal." In other words, "Why is the NDP government doing this to us?"

I want to go back to the LTA. As pointed out by Mr Wilson, under the LTA, nurses or attendants can have access to your room 24 hours a day. Under the LTA, I'm sorry to say, they won't have access to your room 24 hours a day. I think it should be resolved now by staff because I've heard this before from Mr Wilson, and I think it should be clarified. Can I ask the parliamentary assistant to clarify this?

**The Vice-Chair:** No, you can't.

**Mr Grandmaître:** Can I ask staff?

*Interjections.*

**The Vice-Chair:** Could we have some order, please. At this point the questions are to the witnesses, if you'd please direct them through the Chair to the witnesses.

**Mr Grandmaître:** Mr Chair, I'm sorry. I don't want to be difficult, but Mr Wilson has said something that I'm challenging.

**The Vice-Chair:** You have every right to challenge



Mr Wilson, but at this point you have about one minute left in your questions.

**Mr Gary Wilson:** You're challenging the Chair?

**Mr Grandmaître:** I didn't say the Chair. I challenge you.

**The Vice-Chair:** But at this point you have about one minute left in your questions of the witnesses.

**Mrs Lynch:** I'm a lawyer. It's true I'm a lawyer from New Brunswick, but I think the Landlord and Tenant Act is the same everywhere. You do have to give 24 hours' notice before you go into an apartment of a tenant. You just can't walk in at any minute. You have to give 24 hours' notice.

**Mr Grandmaître:** Thank you for your legal advice.

**Mrs Lynch:** That used to be the law. I haven't practised law for 33 years, but I don't think it's changed that much.

1110

**The Vice-Chair:** We appreciate your participation, and coming down from cold Ottawa to the warmth of Toronto today. Certainly we will have clause-by-clause consideration of this bill in two weeks, and hopefully some of your concerns will be addressed. Thank you very much.

GIBSON/MUNRO AND ASSOCIATES LTD

**The Chair:** I understand that the next presenters are here, and they are Gibson/Munro and Associates.

The committee has allocated 30 minutes for your presentation. You should begin by introducing yourself, your position within the organization, and then you have the 30 minutes to use as you wish.

**Ms Deirdre Gibson:** My name is Deirdre Gibson and I am a social housing consultant. I've been working with groups for 13 to 14 years, helping them access both provincial and federal money to build social housing in their communities. Mr Johnson may recognize me. One of my clients is a group that's very near and dear to his heart, Senior Link, and Cecilia Murphy has been one of the people that I've had the honour of working with.

Today, what I'd like to do is take a very narrow focus on two points, garden suites and particularly shared accommodation within social housing. I know that you're having a number of other presentations by people who have a very detailed background for housing where there are support dollars from a support ministry. What I want to speak about is what's happening very quietly within some social housing, perhaps without the Ministry of Housing realizing what its staffing dollars are doing.

In many projects, there are examples of four-bedroom apartments where four unrelated individuals are sharing that unit. Each individual has their own bedroom and then they are sharing a kitchen and a bathroom. What happens now is that there are informal arrangements to make the space work. The staff help the people solve problems; they help them either bring up their life skills or whatever it takes. These people are not in need of services in regard to their health. What they need is some life skills assistance to make sure that they can live cooperatively with three other people whom they've

never met before. This is happening quietly in a number of projects in Metropolitan Toronto.

What happens now is, if it doesn't work, if the match isn't good, if someone is too disruptive or too disoriented or maybe just too cantankerous, the group is able to work with that individual, try and find them somewhere else, ask them to leave, work with the family, whatever it is. But they are able to ask them to leave. What's going to be created is going to be a dilemma on the rights of the individual against the rights of the three other people who are trying to share the accommodation.

I understand that the Lightman commission had looked at maybe some kind of fast-tracking or special treatment that could be given in terms of evicting people. What I'm suggesting is perhaps there be consideration given to allowing people to be exempted under special circumstances that would be approved by the government ahead of time. Right now, for example, women's groups can sometimes apply to the Human Rights Commission to be exempted from certain aspects of the human rights code, and this is without denying the validity of the human rights code in all its intents.

I think generally most social housing providers support in principle what you're attempting to do here, which is to protect individuals and not have people standing out on the sidewalk with their belongings in a garbage bag wondering where they're going to go next. But in this very narrow niche within social housing, the amendments that you're proposing are going to create problems, and the solution will be to not take risks. In other words, they will not be reaching out perhaps to some of the very needy people that they have been because they're not going to have the skills and the time to go through lengthy eviction proceedings. The reality of what will happen is that the three residents who have been working well together will probably leave, and the one cantankerous individual will be left. So I just wanted to make you aware of that as a problem.

The other issue I wanted to address was garden suites. A number of senior citizens' groups have been very interested in this as a concept, and to date most of the work that has been undertaken and the number of demonstration projects that CMHC has been spearheading and that the ministries of Housing and Municipal Affairs have been involved in have been looking at garden suites in relationship to senior citizens as an alternative, as an option. The way I understand the legislation that's proposed, it would become as-of-right for all individuals, and I'd just like to suggest that should be looked at again.

The studies that have been undertaken show that the community acceptance seems very much linked to the fact that the people have some kind of relationship with the family or the individual who's in the main house. It seems to me when there are other good things happening in Bill 120 which are going to generally increase the accessibility to affordable housing by the creation of secondary suites in units, that it would be appropriate to have this special niche in the market, garden suites limited to people of a certain age or a certain ability level; in other words, that they are linked to and are going to be receiving some kind of support from the

people in the main house. Since there have been studies that have outlined that this in fact would not be contrary to the Human Rights Code, I'd just like to suggest that this committee look at that and address the issue of, is it appropriate for garden suites to in fact be as-of-right for every individual?

That's essentially what I've said in this longer paper, and those are the two points I wanted to bring forward.

**Mr Gary Wilson:** Thanks very much for your presentation. It does highlight a couple of issues that we have considered over the course of the hearings.

I guess through the hearings the shared accommodation is one of the issues that we've had to deal with, and it's come from both sides, the residents themselves as well as the people who help run the homes or offer the care, to give us some insight into how the Landlord and Tenant Act will affect it. I guess one of the things that has arisen is what difference the Landlord and Tenant Act will make in the immediate living. That is, you have to deal with the people in the home in a certain way now, and you mention in your example four people, where three have a greater sense of agreement about how things should work and one doesn't, so how you work with that person to have him cooperate more with the other three.

Do I understand you correctly to this point, that without LTA it works that way? Then I guess my question is, how will LTA affect that?

**Ms Gibson:** Well, it will put a rigidity in the system.

**Mr Gary Wilson:** Just up to that point, though. Do you see that it wouldn't necessarily affect it? In other words, you could still work with the individual who is not fitting in properly, according to the other three anyway.

**Ms Gibson:** That's right, and I think most social housing providers are willing to accept that responsibility. In other words, they don't want to just leave someone on the sidewalk. But they can resolve the problem much more quickly now, and if they have to ask someone to leave and say to the family, "You've got to take this person back," then it can happen within the space of a week.

**Mr Gary Wilson:** Within the space of a week, okay.

**Ms Gibson:** Let's say they have a licence agreement or they have a written contract; you know, they're both bound by it. The way I read it this, under the Landlord and Tenant Act that would not be allowed. So their only recourse—

**Mr Gary Wilson:** Well, only the aspects that are in conflict with the Landlord and Tenant Act would be disallowed. The rest of the contract would hold. But of course, as far as accommodation goes, that is significant. There is a process for evicting somebody. The Landlord and Tenant Act would override any contract.

Okay, so the contract now has a week. For instance, you could discuss with somebody who's having a problem and they might leave the next day if they felt that was in their interests. In other words, they would consent to leave and there would be no problem.

**Ms Gibson:** That's right.

**Mr Gary Wilson:** The Landlord and Tenant Act would not be drawn into it.

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**Ms Gibson:** That's right, as long as they consent to leave. The problem is going to be, I think, that when groups are thinking about doing this, they won't know who's going to consent and who won't, so they won't take the risk. It's always the one tenant who causes 99% of the problems, so they won't take the risk of having that one tenant, because they won't know ahead of time.

**Mr Gary Wilson:** Yes, that's another thing we're hearing too, that there are very, very few cases really that do cause a problem or, where problems arise, they're relatively rare. Again, there are processes in place that often deal with them, that it doesn't come to any kind of coercive measures, say, to get them out, calling the police, or having to rely on other measures. Of course, that is where you have highlighted the concerns we've heard, that it will make life difficult.

On the other hand, there is the issue that we are trying to give people a measure of protection here, that as long as you can hold it over them that, say, unscrupulous operators can evict people at a moment's notice, then that's a way of keeping them in line as well, which causes on the part of the residents a certain amount of insecurity.

**Ms Gibson:** That's why I was thinking of saying let it be done on an exceptional basis. Let there be the general rule and then allow groups to apply—how they would deal with the exception in a much more expeditious manner but still have a process to try to balance the rights of the individual against the three other people.

**Mr Gary Wilson:** That's right. Actually, the Landlord and Tenant Act I think amounts to exceptional, that it would only be in exceptional cases. You have the other measures to work with the person. We also have under way long-term care redirection which will provide for more community resources to help people in various ways with the difficulties that they have. There is the Advocacy Act, the Consent to Treatment Act and the Substitute Decisions Act, which are coming on stream now, which will provide greater resources.

**Ms Gibson:** Which will come first, though, the greater resources or the amendments to Bill 120?

**Mr Gary Wilson:** Exactly. No, that's right. It's very much an issue that the community has to put its resources to. At least I think we understand what you're saying about that and, as I say, it's something we've heard and we are considering.

On garden suites, though, it isn't as-of-right, it is permissive legislation. Municipalities have the right not to allow them and we think the conditions are quite reasonable as far as putting them in places. I'm sorry. Mr Mills wants to speak to this issue, but I just wanted to say that it is permissive.

**Ms Gibson:** The way I read it on page 24, I thought it was a definition which did not include the authority to pass a bylaw that had the effect of distinguishing between related and unrelated people.

**Mr Gary Wilson:** That's when you get to that point.



That's true. Once the municipality has agreed to allow garden suites, then you do set up the conditions. But you're right, that does come down to the Planning Act provisions that don't allow bylaws that would discriminate against people who aren't related. Mr Mills wants to speak.

**Mr Mills:** Thank you for coming. I'm particularly interested in the garden suite portion of this legislation for obvious reasons. I'm trying to convince my daughter down the road to accommodate my wife and I.

**Ms Gibson:** If you don't get into Rideau Place.

**Mr Mills:** If I don't get into Rideau Place. That's not likely. Anyway, I've had a lot of people come to me who feel that garden suites should be as-of-right, but I was looking at your concerns here in the bill. I would imagine that the council or the municipality, related to the temporary use of the garden suite—it's "the council of the municipality considers necessary or advisable" I would think we could get some definition of, when you come before the council to make the application, this is for my mom and dad etc, and then you would go.

I don't quite agree with your concept here about persons of all ages with no relations to the sponsor, because I think today we live in such a changing world. I know personally of very close relationships between older people and they're a totally unrelated group. Right opposite me, for instance, I have a couple there who has no family and there are some young people who come there with a big house and I said to myself, "Crumbs, if they said, 'Well, sell the house and come here,'" if this works, they wouldn't be able to come there and I think that is a travesty really under this act that they should be allowed to do that. I think, hopefully, the municipality in its wisdom will be able to consider that. But I see that you really think it isn't within the scope or the concept of the garden suite. How do you feel now?

**Ms Gibson:** I see some merit in your argument. Maybe they should just declare them to be godparents, define a new relationship.

**Mr Hans Daigeler (Nepean):** I read your background and what you're involved in. I'm just wondering, is it just a personal interest that brings you before the committee to speak to this issue, or why do you make the presentation actually?

**Ms Gibson:** What has happened is that a number of my clients are doing the shared accommodation. They have not received additional funding from Health or from Comsoc. They're just quietly doing it. They're volunteers. I shared the material with them and either they didn't want to come down or didn't have the time to come down.

Personally, I can see that it's a problem. I knew that there were other groups that have support dollars from other ministries coming. I just wanted to come, personally, just to talk about this narrow little slice of the social housing. I didn't appreciate that you were going to have so much of a response on this issue of the shared units. I wasn't aware of that.

**Mr Daigeler:** It's not a narrow issue by any means, frankly. As you just said, we've had many similar

presentations expressing very great concerns about this matter. You certainly, as others have, identified a big problem with this bill. We are still hopeful, on this side at least, that the government is going to listen, because it seems rather obvious—

**Mr Mills:** We're listening. Remember Sunday shopping.

**Mr Daigeler:** Pardon?

**Mr Mills:** We're listening.

**Mr Daigeler:** He kind of derailed me in my thought here.

In any case, this obviously would be an amendment that could be made because it certainly does not in any way, shape or form touch on the basis and the principle of the bill. Of course, I have some ideas myself on that principle.

I just want to thank you for coming before the committee and reiterating, from your viewpoint, that concern that has been brought forward by clients and by the administrators of these various homes and institutions or whatever you may wish to call it.

**Mr David Johnson:** I would like to thank you for your excellent brief and bringing forward a couple of excellent suggestions and for reminding me of the good old days, as well.

I'm just a little bit unclear in terms of the shared accommodation that you're arranging. What is the nature of the people who are living together? Are they mostly elderly?

**Ms Gibson:** Right now they are mostly elderly. They don't need any kind of residential care. Sometimes they've had a history of maybe being alcoholic, or older men—sometimes they're not prepared for a wife to die first and there's a great deal of loneliness and more a need for activation. It's not that they—in a way it's a very narrow band.

If they need more help then they should be in a rest home or a group home for the frail elderly or something. It is a narrow band. It tends to be people without family.

**Mr David Johnson:** You're recommending an exemption from the Landlord and Tenant Act under special circumstances that would be defined. The definition I think is a little bit key, though, because if there's a suitable definition that's legal and understandable then something like that may have a chance, but if there isn't, then there may be no exemption.

I wondered if you had any guidance to give us. You mentioned something about the Human Rights Code, but I wonder if you had any other thoughts on what sort of definition would allow for an exemption in shared accommodation.

**Ms Gibson:** What they would have to outline is how they would have a process that would allow the individuals—look at their personal circumstances and weigh that against the needs of the other people who are in the unit.

I'm not suggesting we set up another government agency, but just that they have a plan and perhaps agree to have someone external to their own organization, like an appeal process. There should be a structure set up



ahead of time that all the residents in the shared accommodation would know that they had access to and that they would agree to abide by the decision. That would bring in the element of consent that Mr Wilson had brought. If you can get everyone to agree when they move in that if there's problems they'll use a process to solve the problem more quickly than could be done under the Landlord and Tenant Act.

**Mr David Johnson:** Perhaps just the fact that it's shared accommodation to start with, which is different than self-contained units which most tenants would live under.

**Ms Gibson:** That's right.

**Mr David Johnson:** So that would be a key. Number two, a key would be that they would have an appeal process. There would be a sort of democratic process internally but then there would be an appeal process somehow. With that kind of framework then perhaps the shared accommodation should be exempt.

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**Ms Gibson:** That's right. In other words, say you've got a building of 100 units and there are only four shared or clustered units, it would only be those four units with four individuals inside of each unit. It would just be specifically for those, not for the whole building; not for the whole organization.

I think in general the principle is we want people to be more predictable. If things don't work out, how do you make it more predictable? The experience of the co-ops that had the co-op act amended—the Landlord and Tenant Act takes a long time and is intended to be narrow. It was either you weren't paying your rent or you were doing something illegal. What we're talking about here is anti-social behaviour. It's going to be a much slipperier fish to grab a hold of.

**Mr Tilson:** This issue of whether you're talking shared accommodation or special services, people trying to assist people who have alcohol and drug addiction problems, the care homes—actually, I do understand what the government is trying to do. They're trying to protect individuals in those residences if their rights are being taken away from them. I do understand, although I honestly believe it's causing more problems than not, some of which you've spoken of.

If you took all this out, this specialized assistance, wherever there are examples that you just spoke of with Mr Johnson, where care services are provided or assistance is provided—if you took all those out and restricted it strictly to what we normally think a landlord and tenant situation, could the problems that the government is talking about for these specialized areas, whether it be care homes for seniors or care facilities for people who are having medical problems, physical or mental—could that protection be offered in some other piece of legislation that would be more appropriate under health jurisdiction?

**Ms Gibson:** I don't know.

**Mr Tilson:** Thank you very much.

**Mr David Johnson:** I just wanted to get back on the garden suites. I think some of your suggestions make a

great deal of sense there. Basically, there seems to be some support for the garden suite concept that also raises some technical issues. I know from your background you might have some thoughts on these. For example, something like the floor space index, that most municipalities guide their planning by: Should the garden suite be considered as part of the floor space index of the whole building structure, if you know what I mean?

**Ms Gibson:** I would say no, because it's a temporary structure. If it's done properly and it's on wooden foundations, literally when it's gone, it's gone. It is seen as a temporary solution. Temporary can be 10 years or 15 years, if Mr Tilson's mother stays well long enough. I think it should be, let the municipality do it through site plan control exempted from the FSI, but look at—is it looking directly into the neighbour's backyard, can it be pulled closer to the garage, those kinds of issues, but don't do it on a density issue. You are adding density.

**Mr David Johnson:** So the municipality would have certain controls over setbacks and placement, that type of thing; is that what you're foreseeing?

**Ms Gibson:** That's what I would suggest. In the bill, they suggest the issue of security. I think that's probably a legitimate one too.

**Mr David Johnson:** I'm just wondering, you're talking about a temporary structure, but we may be talking 10 or 15 years, so it can't be too insubstantial in terms of its strength and structure and that sort of thing if it's going to last structurally for 10 or 15 years.

**Mr Gary Wilson:** Up to 10 years.

**Mr David Johnson:** Well, 10 years, but then there could be an extension, I guess, beyond that and that sort of thing. Do you see any problems? Again, the concept seems good, but I'm just looking at some of the technical problems. At the end of the period of time, if you have a structure that's too significant, then it's going to be an aggravation to tear it down and it's going to be a problem to tear it down.

**Ms Gibson:** The manufacturer building association of Canada feels that it can create a unit that can be taken apart. It would be built as two sections that would come on a transport truck and it could be literally taken apart, like a well-designed modular home. The fact that there's more and more movement to manufacturing in offsite, in a separate building, I think technically it is possible.

**Mr David Johnson:** Perhaps the granny flats should be limited to that kind of construction, where it could be easily taken down if the—some people may want to build, in effect, a second home back there. There may be nothing wrong with that, very serviceable, but it could be very difficult to take down, other than just to sort of totally demolish it.

**Ms Gibson:** I think it is like a second home, but you could certainly limit the square footage. In other words, it should be a self-contained unit. It has to fit into the municipal infrastructure; it has to have its own connection to the sewers, obviously, or through the house. I don't know how they'd work that out. Essentially, it's going to be either for one or two people who are related, ie, it would be a one-bedroom unit for two people, so I could



see that you could limit the size. If the idea is that you're facilitating social interaction and maybe sharing of food, you don't want it to be so palatial they're going to spend their whole life there. The idea is that there's some interaction with the people who are sponsoring or the people who are in the big house that fronts on to the street.

**The Chair:** Thank you very much for appearing.

That completes the committee hearings for this morning. We'll see everyone back here same place at 2 sharp.

*The committee recessed from 1136 to 1401.*

#### FLEMINGDON COMMUNITY LEGAL SERVICES

**Mr Brook Physick:** My name is Brook Physick. I'm a community legal worker with Flemingdon Community Legal Services.

I wish at the outset to indicate the intention to limit our comments to the accessory apartments portion of this bill. Our experience with care homes has been minimal and our comments will reflect this.

I also wish to take a couple of minutes just to give a little bit of a background of our involvement in this issue, which has led to the conclusions for the remainder of our submission.

Flemingdon Community Legal Services is a community legal clinic funded by the Ministry of the Attorney General as part of its legal aid program. We provide legal assistance to people within our geographically defined community, which includes all of East York, the Don Mills, York Mills area of North York and parts of the city of Toronto. Our assistance is limited to "poverty law," and while we're considered to be a generalist clinic, most of our substantive work relates to housing, welfare and immigration matters.

For several years, our clinic has pursued an active interest in the accessory apartments issue. As well as dealing directly with some basement apartment clients through our clinic, we have been involved in a number of activities directly related to residential intensification, and specifically accessory apartments, including the following:

During the late 1980s, we participated in the Committee to Stop Rooming House Closures in North York, an ad hoc group that was formed in response to North York's infamous Dirty Harry campaign. Our involvement enabled us to make contact with several roomers and occupants of basement apartments and to gain access to some of these dwellings. It also afforded us the opportunity to speak with some of the landlords of these illegal units. This committee also took part in councillors' phone-in television shows in which the major issue discussed was accessory apartments.

As a member of the housing committee of the North York Inter-Agency and Community Council, our clinic worked with North York agencies and individuals to develop and distribute a brochure informing North York residents about residential intensification, which included, of course, the legalization of accessory apartments.

This brochure was distributed to approximately 100,000 North York households. In it, we attempted to set out the most common issues relating to the existence

of accessory apartments, and in conjunction with this brochure, we established a temporary telephone hotline and requested that residents contact the hotline to express their comments about the content of the brochure, specifically as it related to accessory apartments.

Similarly, as active participants of the housing committee of the East York Community Development Council, we developed and distributed packages on residential intensification within that community, speaking on occasion to various groups and other interested parties on accessory apartments.

These activities have enabled us to make the following conclusions: Accessory apartments are not new. This issue has been around for decades and so has the controversy surrounding it. With an estimated 100,000 illegal accessory units throughout the province of Ontario, it is unconscionable to think that we can accept the status quo on this issue.

Most municipalities have consistently damned the provincial government for promoting province-wide legislation which legalizes accessory apartments. They argue that such legislation detracts from their ability to control this issue at the local level.

Historically, most municipalities have not effectively dealt with accessory apartments. They have created discriminatory zoning bylaws which do not allow for their legal existence. Because of their illegal status, the occupants do not have access to the same kind of municipal protection that other tenants have. Therefore, the conditions of the dwellings are often substandard, with no recourse to appropriate enforcement of local property standards bylaws.

We have heard much about these municipalities' concerns regarding their inability to enforce local bylaws, particularly those relating to health, safety and property standards. Inadequate powers of entry are constantly being blamed for the lack of enforcement capability. The municipalities have demanded that the province provide them with greater powers of entry so that, with easier access, the bylaws can be properly enforced once the apartments have been legalized. The province has acceded to this request by proposing amendments to the Planning Act under Bill 120.

There is some doubt, however, as to whether this is even necessary. It is primarily the tenants and not the landlords who request the assistance of bylaw enforcement inspectors. If accessory apartments were legalized and tenants were aware that they could utilize municipal inspection services, access to their apartments would not be a problem. In the event that there were suspicions of serious illegal activity being carried on within the unit, it is the police and not the property standards inspectors who would get involved in any event. We have to question, then, why there is such great emphasis on increasing the ability of bylaw enforcement officers to have easier access to someone's apartment unit.

Legalizing accessory apartments will enable municipalities to set enforceable standards, which should result in the improved quality of many of these units. Furthermore, it will ensure that tenants residing in accessory apartments will have the same rights and be entitled to the

same services as other tenants. It will also ensure a better understanding of the responsibilities of both the landlords and the tenants in these relationships.

Accessory apartments can and do provide numerous benefits to individuals, families and the community as a whole. Obviously, as an income-producing asset, it provides an opportunity for home owners who are having difficulty making mortgage payments to remain in their homes. This includes seniors, the unemployed or those who have been compelled to take lower-paying jobs and for which the loss of income could result in the loss of their homes. They also enable families to assist elderly parents or their young adult children by providing them with an onsite apartment while enabling them to maintain a considerable level of independence.

The opportunity to have someone living in the house with a home owner who may require assistance with household chores or who may feel a greater sense of security by having someone reside in their home is also appealing. Accessory apartments are often more affordable than other forms of rental housing, and opportunities are there for residents of accessory apartments to live closer to their place of employment. All these advantages are real and provide some of the reasons why accessory apartments exist today, notwithstanding their illegal status.

We recognize that problems can and do exist with accessory apartments, just as they do in every other facet of community living, but we cannot use this as a rational argument to deny thousands of people their right to safe and secure housing of reasonable quality in which people can live without fear of somebody closing down their home because of a violation of a zoning bylaw.

Ensuring that owners of single detached, semi-detached and row or town houses have the right to create an accessory apartment within their homes enables them to exercise choice. There are many who believe that the passage of Bill 120 will not lead to a substantial increase in accessory apartments. Indeed, many home owners who have accessory apartments are genuinely unaware of the fact that they're illegal. This suggests that many of the existing accessory apartments were created in the belief that they were indeed legal. Bill 120 does not compel anybody to create an accessory apartment; it simply gives people an option to do so.

The passage of Bill 120 will go a long way to ensuring that the thousands of people who occupy illegal accessory apartments will no longer be considered second-class tenants, thereby correcting a wrong that has been allowed to exist for far too long. We hope this will happen soon.

**Mr Daigeler:** Frankly, my question relates not so much to Bill 120, but with the numerous presentations from the community legal clinics, I just want to get clear in my mind, you are funded by the Ontario legal aid plan, are you?

**Mr Physick:** That's right, the Ministry of the Attorney General, as part of its legal aid plan.

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**Mr Daigeler:** At the same time, you are obviously very extensively involved in lobbying campaigns with

regard to provincial legislation.

**Mr Physick:** Some clinics more than others; that's right.

**Mr Daigeler:** That is pretty obvious, because frankly, I don't know why this hasn't come to my attention before, but I am not familiar with the legal clinics in the area I represent, Ottawa-Carleton, assuming a political function, an advocate's function. Frankly, it raises in my mind the question of whether that is a proper role for the legal aid clinics.

I haven't concluded my view on that matter, but it does raise that in my mind. In my area they do provide, obviously, legal support to those who otherwise cannot afford it, but I have not been at any time approached by a legal aid clinic in favour or against any political initiative, whereas you and all the other clinics that have come before us are obviously doing that. Frankly, it raises a serious question in my mind whether or not that is a function the legal aid clinics should be involved in.

**Mr Owens:** With law reform?

**Mr Physick:** Are you making a statement or are you asking me to respond?

**Mr Daigeler:** You may wish to respond whether you see that as part of your valid mandate.

**Mr Physick:** Yes, I think I just heard the term—

**Mr Owens:** You heard the term "law reform," that's right.

**Mr Physick:** Exactly. I just heard the term "law reform" mentioned by another member. Clearly that falls within the mandates of the clinics as set out under the legal aid plan through their own regulations.

*Interjections.*

**Mr Tilson:** Mr Chair, could we have this babble stopped? I'm trying to hear the delegation.

**Mr Physick:** Our position on this, in light of the regulations that enable us to do this, is that we represent low-income people and that low-income people, if they aren't doing it themselves, and clearly in many instances they are, will naturally rely on the community legal clinics that represent them to try and find weaknesses within any particular legislation. Clearly it's within our mandate to bring this to the attention of the government bodies that can legislate those changes, whether it's municipal or whether it's provincial.

**Mr Daigeler:** I appreciate that that's what you're saying. Frankly, I will want further clarification on this. I would say it raises serious questions in my mind as to whether that should be part of the role of the legal aid clinic. But in view of the present approach that is being taken here in the Toronto area, you're certainly no exception. I'm not specifically criticizing you.

**Mr Physick:** I understand that.

**Mr Daigeler:** But I am struck by the fact that there have been at least eight or nine community legal aid clinics essentially making the same points. I'm just wondering whether that falls within the mandate, but you answered my question from your perspective.

**Mr David Johnson:** Brook, I appreciate your deputation here today, and I'm sure we'll look at it closely. You



do come down somewhat hard on some of the municipalities in terms of their dealing with this.

I can only say that in East York—and you may have watched us on TV; I don't know if you've had the opportunity—when I was in my former capacity, there were deputations that came before council. These would be maybe 10, 15, 20 or a couple dozen people in a neighbourhood bringing concerns to the council about the lack of enforcement on zoning and property standards and that sort of thing.

These would be people who would say: "We live in this neighbourhood. We've lived here for quite a long period of time. It's a stable neighbourhood, and yet there is a house"—I don't have the numbers here to tell you if it's 80% or 75% or what it is, but more than often than not, it would be a unit that was duplexed or triplexed or fourplexed or whatever, a unit that violated the zoning in some regard and it would cause a great deal of aggravation to the surrounding community, either through noise or parked cars all over the place or junk or just lack of maintenance or fights or you name it, or even some things I wouldn't mention in a public document.

Local councils are required to deal with this. These people would come right to council meetings. The council meeting's being televised and put on the spot, and it was demanded, "What are you going to do so we can get our community back?"

My experience, and I can tell you from talking with other mayors, the experience is that the tools are just not there today to deal with these kinds of problems. In East York, we set up what we called the community action team, CAT. We involved the building inspectors, the fire chief, the police, health. We involved all aspects. Plus the people who would come and make deputations were always there in great numbers as well. We tried to come to grips with dealing with these kinds of things.

You talk about the right of entry. It seemed to come down to, in many cases, you just couldn't get into the properties to do the inspection. Knock on a door and the tenant, the owner, whoever it was, would not let people in. There was very little that could be done and yet people were there in front of councils demanding that some action could be taken.

I just I pose you the question that you've made an assumption that if the apartments are legal, all tenants will automatically come forward and ask for an inspection. I would put it to you that this is very much an assumption, and in my estimation it's a somewhat rosy assumption, because certainly my experience has been that tenants, for a variety of reasons, simply mistrust authority, which would continue before and after Bill 120, for language problems, whatever reasons. There are a number of reasons, even after Bill 120 goes forward, that tenants will not want people coming in to inspect their premises.

I think the municipalities are genuinely concerned, and we're hearing this from coast to coast in our hearings on this. They're still concerned that if they can't get in, they won't be able to deal with these problems and the problems will be even greater. I just ask for your comments on that kind of concern.

**Mr Physick:** First of all, with respect to the right-of-entry issue, I recognize that there are home owners within communities who are very concerned about some of the apartments that do exist on their street. It does seem to be those complaints that get dealt with.

Our concern as a community legal clinic is that when we have requests coming from tenants residing in those premises and they say that the places are simply in poor condition, we cannot contact the municipalities because we know that they will go and close them down. In these cases the tenants are more than willing to allow inspectors to come into the premises, but to do so would be at their own peril, because they'll lose their home. That's one of the issues we're referring to in there.

Secondly, with respect to the suggestion that all tenants would want inspections in their premises, clearly not. I accept that. Property standards inspectors now don't go out knocking on apartment doors and saying, "We want to come in and inspect the premises." There is no proactivity to any of this stuff. They simply react to complaints. What I'm referring to in that submission is the fact that clearly if the complaints were there, then the inspectors would be able to respond and the tenants themselves, if the premises were legal, would then be satisfied, knowing that they wouldn't have somebody come in and shut down their premises.

I know it has been difficult for municipalities. It has been very difficult for inspectors. When the vacancy rate in Metro Toronto was close to zero, nobody was wanting to go in and close these places down, with the exception of those that were creating serious problems. But what that meant was that there were a lot of people who were simply not getting any assistance at all from the municipal services for which they're paying in their rents. That's not fair.

**Mr Tilson:** I appreciate your presentation is geared more from a—maybe I shouldn't assume anything. I come from a rural area. Rural municipalities don't have the budgets that the larger municipalities have. They are concerned that these unplanned units cannot be part of a development charges bylaw and the revenue that stems from that. They're worried about inspections. They're worried about the cost of the fire inspections, the municipal inspections. They're worried about the whole financial impact on the involvement of the municipality and on, I suppose, environmental issues, particularly with privately owned water and sewage systems.

*Interjection.*

**Mr Tilson:** That's the issue that the municipalities are coming to with respect to specifically the inspections, which is just a carrying on of these issues.

**The Chair:** The question is?

**Mr Tilson:** I may be making a statement. I may ask a question, Mr Chairman. You'll just have to wait patiently.

**The Chair:** Well, we're not going to wait too long.

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**Mr Tilson:** My comment really repeats a question that has come from many other depositions that have been put forward. Is this really in response to a housing crisis in

the city of Toronto, which really doesn't apply out in the rural areas?

**Mr Physick:** I think it's more a response to the fact that there are an estimated 100,000 units across Ontario where people are residing in those places in a way in which they're not being served as other tenants are. That's unfair to the tenants.

There may be some differences in the rural situation. I'm not familiar with that because I don't involve myself in the rural situation. But from the perspective of simply having tenants be able to reside in the place of their choice in a feeling of security, then I think it's true across the board.

**Mr Derek Fletcher (Guelph):** Thank you for your presentation. As far as rural communities are concerned, I don't expect you to know everything about rural communities also. I do come from an area that does have a big rural area and their big thing is the garden suites and septic systems, not enforcement or anything else.

I'm looking at your presentation. "The province has acceded to their request by proposing amendments to the Planning Act under Bill 120." What amendments are we talking about specifically?

**Mr Physick:** The increased powers of entry.

**Mr Fletcher:** We haven't done anything there, have we?

**Mr Physick:** In terms of the evidentiary issue, in terms of seizing the evidence, that's what I'm referring to.

**Mr Fletcher:** We've heard from the municipalities, and I know the other people were saying this. To me, that's a red herring, as far as I'm concerned, from the municipalities that they want to continue to do what they've been doing. It's more of a jurisdictional war than anything, as far as I can see.

Anyway, when you say discriminatory practices by municipalities, do you mean things like no-parking zones?

**Mr Physick:** Simply the fact that there's one family per household. I mean, North York's definition of the family was clearly a classic example. They used that to discriminate against people contrary to the charter and contrary to their own laws.

**Mr Fletcher:** Definition of the family?

**Mr Physick:** Yes, it was a family bylaw that said no more than three unrelated people could reside in the premises and it created all kinds of problems. Subsequently, that's been sorted out, but none the less that was being used for years as a tool.

**Mr Fletcher:** Yes. Do you see this, if Bill 120 goes through, as a big rush for everyone to go around and get accessory apartments in their homes?

**Mr Physick:** Absolutely not. There are 100,000 of them there apparently, according to reasonable guess-timates. Over the last few years, we've spoken with a number of groups. We've had this campaign going where we distributed 100,000 brochures to people just in North York alone. I mentioned we set up a hotline. We had about 250 calls responding to those brochures.

The vast majority of those calls related to how they can access affordable housing. It wasn't even the issue of accessory apartments. The remaining were split. Some were in favour, for the reasons that some have pointed out, and some were opposed, for all of the standard reasons. But at no time, when I've spoken with groups of home owners, have I heard, "Well, if they legalize them, I intend to go right out and do this." No.

**Mr Fletcher:** Yes, not a big rush then. When you get complaints from people with poor English skills—you do get complaints from people who do have poor English skills—I hate using that term, you know.

**Mr Physick:** English as a second language perhaps?

**Mr Fletcher:** Yes.

**Mr Physick:** People living in basement apartments?

**Mr Fletcher:** Yes.

**Mr Physick:** Yes.

**Mr Fletcher:** So they know their rights. Well, they know what's wrong.

**Mr Physick:** They know we exist and they know that there's a place to call.

**Mr Fletcher:** Right. Thank you.

**Mr Physick:** Many of those calls, incidentally, relate to maintenance and that really ties our hands.

**Mr Owens:** Welcome to the committee, Brook. Nice to see you again. Did you bring Marjorie Hiley with you today?

**Mr Physick:** I left her back at the office.

**Mr Owens:** Right. Just in terms of the catchment area that your clinic serves, it's a hugely diverse area with respect to cultures, with respect to income levels. You have people all over the map. In terms of the demographics as well, you service a high seniors population, particularly in the Thorncliffe-Flemingdon Park areas.

One of the things that I'd been wondering is in terms of the kinds of education process that this government will need to get the message to both landlords and tenants with respect to rights and obligations. Do you have any suggestions as to how we could do that? Further, if we're dealing with clients who may ordinarily fall under the ambit of the Advocacy Act, how do you deal, through an L and T process, with a person like that who has this newly legislated right?

**Mr Physick:** With respect to the latter, we've had no dealings at all in that area. With respect to the former, as part of some of our initiatives with the local, for all intents and purposes, the social planning body in North York and North York Inter-Agency and Community Council, we have in fact met on the issue of educational programs, assuming and hoping that this legislation goes through.

What we've done is gathered together people who have varying housing mandates throughout the city of North York to see if there's some way that we could collaborate, not only to provide an appropriate legal education program—and that may fall on the legal clinics in North York, I don't know, but others have indicated an interest in doing it; that's under the Landlord and Tenant Act—but also in terms of dealing with the appropriate zoning



and assisting people in the areas that they may need to know in the event that either they want to bring their current, existing basement apartment up to standard or they do in fact want to put a new one on stream. We've come up with no final solutions on that, nor have we come up with any final conclusions.

**Mr Owens:** Are the politicians involved in terms of local politicians, councillors, as part of the coeducative process? There are a lot of myths out there. Coming from Scarborough and it being a 10-year battle, we're still at stage one with respect to attitudes and knowledge level. Are the local politicians participating in a positive way to forward this process, given the reality?

**Mr Physick:** Clearly, in East York there seems to be a reasonable degree of cooperation.

**Mr Owens:** That's Michael Prue.

**Mr Physick:** That's Michael Prue, yes. In North York, that is the case in some instances. North York clearly needs work on this.

**The Chair:** Thank you for appearing today.

Before we move on to our next presentation, I am in receipt of a release that arrived in the clerk's office at 2 pm. It is on the stationery of Drummond White, MPP. I will read the paragraph that pertains to us. He says: "In consequence, I am resigning from my position as parliamentary assistant within our government effective immediately. I am also withdrawing from caucus."

That would indicate to me that Mr White is no longer a member of the NDP government caucus and that in the future, being tomorrow, we will have some difficulty with substitution in that regard. I will not be able to accept a substitution from the chief government whip on Mr White's behalf, as he is no longer a member of caucus.

**Mr Tilson:** One less of you to deal with.

**Mr Owens:** This used to be a friendly committee, till about two days ago.

**Mr Daigeler:** Don't forget about Margaret, Steve.

**Mr George Mammoliti (Yorkview):** Mr Chair, I want to hear from the deputant here. I don't want to hear any heckling from the others.

**Mr Frank Miclash (Kenora):** And, George, if you don't heckle yourself.

**The Chair:** We've been getting along fairly well so far.

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#### AFFORDABLE HOUSING COMMITTEE OF YORK REGION

**Mr Peter Formica:** I am Peter Formica. I'm coordinator for the citizens for affordable housing for York region.

Mr Chairman, members, for the past seven years the Affordable Housing Committee of York Region has been lobbying and advocating for the provision of more affordable housing choices. We have currently reviewed Bill 120, An Act to amend certain statutes concerning residential property, and believe its implementation will deal constructively with the many affordable accessory units in the region, ensuring that future units are safe and built to the Ontario Building Code.

Bill 120 has many benefits, from housing people affordably and boosting the local economy by the sale of building materials, the employment of building trades, to assisting municipal compliance with the 1989 land use planning policy statement. The legislation will also deal with the approximately 100,000 units in Ontario that are currently illegal through zoning and ensure all apartment houses are safe and built to code. Municipalities who knowingly allowed unsafe apartments to exist have left themselves open to costly lawsuits if a tragedy were to occur.

Many municipalities and groups in York region have worked hard to build affordable social housing units. However, there are still many people without adequate affordable housing. Most of our non-profit housing has been directed to seniors and families. Apartments in houses will help provide housing for singles who do not qualify for the seniors' housing and couples with no dependants. This sector of the housing problem has been sadly neglected. Apartments in houses, by their nature, tend to rent for less.

The Hemson report, which was a housing needs study for the regional municipality of York, stated that York region would require 1,000 assisted units per year over the next five years, for a total of 5,000 units. Approval of apartments in houses could fill some of this need, thus saving the province millions of tax dollars.

Another group who could benefit from the creation of apartments are first-time home buyers trying to get into the housing market. The income from legal apartments can be used to help qualify applicants for mortgages. Seniors can benefit financially from the income of apartments as well as arrange for assistance with property maintenance by their tenants. Retired home owners who spend many months away from their properties might also use the tenants of their apartments to ensure their homes are secure while they're away. Many insurance companies require changes to premiums when residents vacate their properties for long periods of time.

Enclosed is a question-and-answer sheet which we had prepared for Bill 90 but we feel is still appropriate for Bill 120. In order to save the task force time, I am not going to read it to you but include it as general information.

I wish to thank the task force for the opportunity of speaking here today. If there are any questions from the task force, I'll be more than pleased to answer them.

**Mr David Johnson:** Thank you for your deputation, first of all. I note on the front page that you have indicated, "Municipalities who knowingly allowed unsafe apartments to exist have left themselves open to costly lawsuits," etc. In your municipality where you live, when you've asked the municipal leaders why they have allowed this situation to occur, what sort of response do they give you to that particular question?

**Mr Formica:** What's happened over the years—I'm an ex-building inspector as well, so I'm aware of some of the problems. If a municipal official knowingly allows an illegal use to continue, "knowingly" is the word.

We've had thousands of people in basement apartments

that many municipalities don't really know about. When they have a complaint on record, if it's a municipal bylaw, they must act upon it. If they don't act upon it and a tragedy were to occur, then they could be liable. There have been losses, I believe, across Canada on this issue.

When you speak to the politicians behind the scenes, they're all gentlemen; they don't want to throw anybody out in the street. They say, "We know there's a problem but we sort of turn a blind eye to it." That's great because they're not throwing somebody out on the street, but if there's a safety issue like no smoke detectors or unsafe exits, they're leaving themselves open. This is one of the areas we should try to clean up, we hope.

**Mr David Johnson:** Okay, you've told me two things here, though. You've told me, first of all, that there are many, many of these apartments that they don't know about.

**Mr Formica:** That's correct.

**Mr David Johnson:** Secondly, you said that where a complaint was registered or something brought to their attention, they're compelled to follow up.

**Mr Formica:** Correct.

**Mr David Johnson:** What I don't understand is that you make the statement that municipalities knowingly allowed unsafe apartments, but you've just indicated as a former building inspector that whenever an unsafe condition is brought to the attention of the municipality, the municipality must follow up and ensure the enforcement.

**Mr Formica:** I'm not trying to take a broad brush and label everybody as ignoring these units. But I'm saying when people know there's a conflict to the bylaw, they have to act or leave themselves open to a lawsuit.

**Mr David Johnson:** And they do?

**Mr Formica:** I don't know how much they do. I really don't.

**Mr David Johnson:** In your capacity as a building inspector, were you aware of any unsafe conditions that were brought to your attention that you allowed?

**Mr Formica:** No. I haven't been an inspector for seven years and I'm not aware of any.

**Mr David Johnson:** I'm sure you're representative of all the building inspectors. When anything was brought to your attention that was illegal—

**Mr Formica:** Anything that was according to code I always acted upon because I not only put the municipality in jeopardy, I also put myself in jeopardy for a lawsuit.

**Mr David Johnson:** Absolutely.

**Mr Formica:** You must act.

**Mr David Johnson:** You must act.

**Mr Formica:** I'm just pointing that out to municipalities, that they have to act.

**Mr David Johnson:** On the other hand, I don't know where you worked, but in some municipalities the property standards are separate from the building. Particularly if there is no building going on—I think this even

pertains to building inspectors—if there's a complaint and you knock on a door and say, "We've had a complaint with regard to this house because somebody thinks there's something illegal going on in this house, and we'd like to come in and inspect," the person who answers the door can tell you to get lost.

**Mr Formica:** Nobody has the right of entry. That's correct.

**Mr David Johnson:** Nobody has the right of entry. So what can you do at that point?

**Mr Formica:** What we're concerned about is that the future units must be built according to code by virtue of applying for a building permit and having them inspected. For the ones that exist now, if a tenant phones up and complains, if this becomes legalized, a tenant can lodge a complaint and have their bylaw infraction rectified.

Right now it exists out there that people live in fear of phoning and complaining because they know that when the inspector shows up, they have a right to ask them to leave the premises because they're not supposed to be there in the first place. What we're saying is, as more units come on the market, there's a possibility that the bad units will be eliminated through market demand.

**Mr David Johnson:** From your experience as a building inspector, was there ever work done in a house where there should have been a building permit issued but people didn't get a building permit, they just went ahead and did the work without a building permit?

**Mr Formica:** There's always a certain amount of that going on. You can't stop it. What happens, though, is many times people would apply for permits and they'd call the room a rec room, a milk bar or whatever it is. In your opinion it's quite obvious what it is, but if it's not stated on the plan, you can't enforce something that's not there.

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**Mr David Johnson:** Do you think it's likely or possible even after Bill 120 that people would install basement apartments but not go to the trouble of asking for a building permit?

**Mr Formica:** Yes, there would always be some of those. There are some probably going on right now which we can't control.

**Mr David Johnson:** Sure. Absolutely.

**Mr Formica:** But the very fact that they're legal, you don't have that stigma of the people trying to get away without it because now they can apply through the regular channels. They're entitled to a building permit now. If they don't get a building permit, they can go for a mandamus, which is perfectly within their rights provided they build it according to the Ontario Building Code and the fire code.

**Mr Tilson:** Do you perceive that with this legislation carrying there will be much of an increase in the construction of basement apartments, garden flats? Do you anticipate there will be that many more new units constructed?

**Mr Formica:** Right now, in speaking to some of the real estate people out there, in a lot of these areas there's



about 5% to 10% out there now. I don't think you'll have a tremendous influx. You will have some a few years down the road. I might even do it when I'm ready for retirement.

**Mr Tilson:** So I guess the real purpose that we see now at least, the immediate purpose of it, is just simply legalize all these illegal units around the province.

**Mr Formica:** And clean up the building code infractions.

**Mr Tilson:** And that gets to my question.

**Mr Mammoliti:** Almost like dropping the tax for cigarettes, David.

**Mr Tilson:** That gets to my question. With this law as passed and these apartments legalized, it could, if I listen to the depositions that come forward, require substantial changes, whether it be heights of ceilings or plumbing—substantial capital expenditures to these units. If the tenants know that, aside from the fact whether they'll complain in the first place—because some of them don't even know they're in illegal units now. But if they did and the landlord makes it quite clear, "If I've got to do all this, I've got to close it down. I don't have the money to rectify that," do you think that there's much of that where the conditions of these illegal units simply aren't even close to meeting the standards of our building code?

**Mr Formica:** The ones that are that far in violation of the building code as to be unsafe, exits and so on, if they're that bad, maybe they should be closed down. The idea is we want to get rid of the terrible ones. But for a \$30 smoke detector—most people who die in fires die because of smoke inhalation, not because of the fire. If a \$30 smoke detector is put up, then they're aware of it.

An unsafe exit: It's very, very easy if a person's coming out of the basement and there's another unit upstairs. If you have drywall going downstairs and a solid-core door upstairs with a closure on it, chances are that meets the fire code as a safe exit.

**Mr Mills:** Thank you, sir, for coming here this afternoon. Tomorrow is the last day of these hearings and I must tell you quite honestly that I've heard all there is, I would think, about apartments in houses that one could put through their mind. What I'm trying to wrestle with is that what we're talking about here is making apartments in houses legal to make them safe. Right? I see your brief here, and you've gone through a number of questions. You say they pertain to Bill 90 and they pertain now, quite rightly, to Bill 120.

Why do we need apartments? We've heard why. Won't apartments overcrowd the population? We heard that they won't; that's a red herring. Won't the bill encourage apartments in every house? Of course it won't. We heard that. Would I want to put an apartment in my house? No, and millions more like me. Can existing water and sewer systems handle it? We heard that they can. Will schools accommodate? We heard that they can because the people who are in apartments mainly are single people or single mothers trying to get their heads above water to get back into society and the children are not going to school yet.

We've heard about the tenants. We've heard that the

municipal services will be able to enforce some sorts of charges to help with the taxes. Will property values decline in neighbourhoods? Of course they won't, and we've heard evidence that this won't happen. Will they "change the way my neighbourhood looks?" Of course they won't, because all this is going on inside the four walls, and I defy anyone on this committee now to walk down a street and tell me if the house has an apartment in it, because they can't. Physically they do not change, and the old adage about parking problems, we've dispelled that red herring. That doesn't work.

What keeps coming back to me is "not in my neighbourhood," and that people who live in basement apartments are low-lifers and all that and they're the worst kinds, when in fact they're humans like you and like me and like everyone else. I venture to go as far as to say to you, sir, that I know a lot of people who own houses in my neighbourhood who really are questionable characters and the people I know in apartments are upright. So I don't buy into that.

Perhaps above all, we had the acting fire marshal here yesterday. This has been a big red herring that we've heard from the opposition and goodness knows where about people perishing in fires, about all these terrible things. We had the acting fire marshal of the province of Ontario who came here yesterday and said that he doesn't see any problems with this at all. Statistics also prove that the ratio of deaths in apartments is less than it is in ordinary houses. We heard that.

You keep throwing in these red herrings, and so I say that I've heard nothing, if it's any solace to you, in these weeks that I've sat here on this committee that will end tomorrow to suggest to me that apartments in houses are a bad thing. It's affordable housing, it will meet people's needs and I agree with you. You're in support of Bill 120, are you not?

**Mr Formica:** Definitely.

**Mr Mills:** We should get on to it. I was involved with the Toronto Islands bill and they've created a song down there that they sing now, "We Passed the Bill." It's a very nice song and that's what we should be doing here: We pass the bill.

**Mr Formica:** I've read a lot of these issues and I've read one of the municipal briefs and I've seen the arguments to that side. This is why my brief is very thin, because there's no point in bringing everything up again. But the one point I really want to stress is the fact that the sector of the economy we're not serving is the single people and the young couples who normally don't have children. They don't qualify for a lot of the housing out there. Accessory units are cheap units in comparison to the rest of the market out there.

When I first got married I had an option of trying to find a very cheap apartment or finding a flat somewhere in the city. They were available. But now, with our children growing up, a lot of those units have dried up over the years, and with the population increase the units are not there to serve our children.

These people only need these units for a few years until they get on their feet and then they buy their house

and they get on the ladder like everybody else, their first house, and move up the ladder. We've eliminated that status, that plateau, and by creating basement accessory units it gives these young people a chance to find a unit.

I know in one case—I was working for an apartment owner—a young engineer had come to the city of Toronto to work and he applied for one of the units. The girl at the desk said, "No, rejected." Because they were the ones renting the apartment, they were trying to rent to the higher-income people; a young engineer didn't qualify for a unit.

This goes on all the time. Because of the difficulty of finding good apartments out there, some of the landlords pick and choose who they're going to rent to. At least, if the person has a chance to pick a one-room somewhere or a little accessory unit somewhere, it gives them hope to get established in the city.

**Mr Mills:** When I was in the army no one wanted to give an apartment to a serving soldier. Tell me about it. We were blacklisted for years. That's a fact.

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**Mr Gary Wilson:** Again, thank you for your presentation, Mr Formica. It's very solid. I'm really pleased with this issue in number 5, partly because it responds to something Mr Tilson has raised, even though the regulations of the bill will exempt houses that are on private septic systems. So there's no question that they have to—

**Mr Formica:** I realize that.

**Mr Gary Wilson:** Yes. Under number 5 here, "Can existing water and sewer systems handle additional units?" you not only say that you think they can because of the situation you've outlined, the changing neighbourhoods, the population declining in some areas, but you also go on to say that they're a perfect place to bring in water-conserving systems. That I think is such a good point.

**Mr Formica:** You can bring in shower restricters, you can go to a 1.5 flush per toilet. In actual fact, if in subdivisions they switched to the lesser toilets, you would decrease the water supply and the sewage and there would be a tremendous saving on sewage treatment. I don't know who has the legal authority for that, but if somebody came to me, if I was applying for a basement apartment, and they said, "Yes, you can have the basement apartment provided you put in the special toilet. It's about \$50 more," I'd say for \$50 why not put it in. Not only that, I save money. You get your money back.

**Mr Daigeler:** In view of what was said just in the previous round I think we have to make it very clear that nobody who came before the committee said that apartments in houses were bad. Everybody, including those who are against Bill 120, said that housing intensification is a good thing and that they want to work on it and in fact they're working quite actively on it.

The question really is whether the provincial government should use its muscle and override the municipal planning authority—I think that's the question—and whether the lack of action or perceived lack of action by the municipalities warrants that drastic interference by the province.

Now, obviously there are some who are saying municipalities haven't acted. I guess in Scarborough in particular there seems to be a big fight on, and tomorrow we're going to have the mayor of Scarborough here, so that should perhaps be the crowning event of those hearings. But in your region, in your area, how advanced was the housing intensification?

**Mr Formica:** In York region it's over 80% single-family. It's a tremendous amount of single-family residential homes. There isn't high intensification.

I live in a residential area. I have two people living in our house. The people next door have five people living in their house; it's a family. What is wrong with three people living in my house even if one's not related? It's still a residential use. Just because their name is different from mine does not change the use of the neighbourhood. But this is what planning says. Planning says, "This is single-family and it's only one family."

If you want to be fair in the tax system, the municipal tax system or any system, then you should say, "Okay, you have a house of so many square feet and in this so many square feet you're allowed to have so many people." Related or unrelated shouldn't make any difference, because then that would be a true statement of how it affects the neighbourhood. But because the person's of a different name than mine it doesn't make it a non-residential use, and this is how municipalities view it.

**Mr Daigeler:** I think that's fair and I understand that. I presume you're familiar with the provincial housing intensification policy that was put together in 1989 where the municipalities were encouraged to work towards intensification, including secondary apartments, and that's my question. What has happened on that in your region at the official municipal level? How far have they gone? Have they looked at it? Have they approved the housing intensification policy? Has it not gone far enough? What's the situation there?

**Mr Formica:** York region does not have an official plan. It is in draft stages now. It has been going on for 20 years. There's hope that it's going to be passed some time this year. The town of Richmond Hill's in the same position. Most municipalities in York region are doing their intensification now and they're all coming up.

**Mr Daigeler:** So they're on the way.

**Mr Formica:** Richmond Hill should having their hearing on intensification some time in March.

**Mr Daigeler:** Then could we not wait and see until they have done their work?

**Mr Formica:** This is still part of intensification anyway. In most cases, whoever has done the study, whether it has been Clayton research or Hemson, they've all gone along with the idea of some accessory units in their housing statement.

**Mr Daigeler:** My point is that we're giving up a very important principle. We're saying the province should override a significant power of the municipalities. I'm very, very concerned about the precedent that is being set here because I have other examples where the province is overriding the local wishes. I'm very, very nervous about the Big Brother here taking over at the local level.



That's what I'm concerned about. If there is evidence at the local level that they're in fact doing—

*Interjections.*

**Mr Daigeler:** Perhaps not in Scarborough, I don't know, but in your area obviously that work is under way. Should we really give those powers to the province to override the municipalities?

**Mr Formica:** Out of all the questionnaires I've seen out there, and these have shown up in some of the reports, the majority of the residents are all in favour. It seems to be the politicians who are the ones who are standing up and saying, "We don't want it." I understand there are only about five or six municipalities in Ontario that have stood up and said, "Yes, we're in favour of it."

Politically, the local politicians don't want to stand up and say, "Yes, I'm in favour of it," because they don't know what the repercussions are going to be, but when you talk to the people on the street there are not as many against it as there are for it.

**Mr Miclash:** Thank you very much for your brief.

*Interjections.*

**Mr Miclash:** Ignore that over there. I appreciate your questions and your answers in the back of the brief as well. One area that you haven't touched on and I would maybe like some comments from you regarding it, with your experience in this area, is granny flats. What experience have you had with them and what are your feelings towards the location of granny flats in a region such as yours?

**Mr Formica:** I don't believe we've had any in York region that I'm aware of. I read the clause religiously when it was Bill 90. By putting that clause in the bill, it doesn't hurt a municipality whatsoever. It gives them more authority. Under the old bill they had opportunity of permitting granny flats up to three years. If a municipality wants to pass them now, they can go up to 10 years. It does give them the freedom if they choose. It doesn't hurt them; it only gives them more authority that if they think something is right at least now they have the authority to pass it.

**Mr Miclash:** In your experience as a building inspector, what are your personal feelings towards the establishing of granny flats in locations such as York region?

**Mr Formica:** As a building inspector I saw a couple of illegal ones go through years ago in North York. At that time I wasn't an inspector; I was an examiner. A quite prominent person put it through because he wanted to have his mother living with him. By drawing the plans up in a certain way you can call it a children's playhouse or something and they went around it.

There was no doubt about this person putting it in. He's quite prominent and everybody would recognize the name. He wasn't intending to get around any bylaws, he wasn't intending to rent out to everybody who came down the street; he wanted his elderly mother to live there so he could give close supervision.

**The Chair:** Thank you very much for coming and talking to us today. We appreciated your presentation.

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## COMMUNITY OCCUPATIONAL THERAPISTS AND ASSOCIATES

**Ms Nancy Sidle:** My name is Nancy Sidle. I'm a unit manager with my agency, which is Community Occupational Therapists and Associates, better known as COTA. I didn't mention in my short written presentation that we are a Metro Toronto agency; covering primarily Metro Toronto, that is. I'm a teeny bit on the nervous side, so I'm going to read.

**The Chair:** Just relax. They don't bite.

**Ms Sidle:** You're sure they're all harmless?

I just would like to say, and I'll try to not read directly, that we welcome the opportunity to provide input to this committee. I think a lot of what I'm going to say you've probably already heard before, and I apologize for that, but we felt the need to express ourselves to this committee, so I shall go ahead.

We're a not-for-profit community health agency and we have a wide range of community and rehabilitative and support services for people living in the community, including those with mental health problems. We have case management services, a hostel outreach, a network therapy and a housing support program. We've been in the business of providing these services in the community, some of them since 1973, and there are approximately 2,000 clients receiving our services in a variety of community settings.

I'm here today to talk particularly on behalf of the housing support services that I work in. Our program is funded by the community mental health branch of the Ministry of Health and we provide our support services in a variety of housing settings, both in the profit and the non-profit sectors. These settings include two apartment projects, three co-ops and 31 boarding-homes providing housing for over 700 tenants with mental health problems. We work with a variety of partners, including Mental Health Program Services, Supportive Housing Coalition, Community Resources Consultants of Toronto and Queen Street Mental Health Centre.

Our central goal in all of these housing settings is trying to help the tenants to stay housed and to be as productive and independent as they wish. I thought it would be interesting for you to understand a profile of one of the housing settings that we work in. I should add that approximately 80% of the tenants are men, probably anywhere from 70% to 80% have been diagnosed as schizophrenic, the vast majority are on social assistance and, quite a staggering statistic, only about 35% have very much secondary school education.

On top of that, we tend to be targeted as working with—it may not be politically correct to say—a hard-to-house population: 40% have a history of aggressive behaviour, 42% a history of having attempted suicide, 36% a history of some legal involvement, 11% a history of creating fire hazards and 10% a history of sexually inappropriate behaviour. To be truthful with you, I don't know exactly what that means, but those are the statistics.

I think the profile indicates that we're serving a group of people who have traditionally had a very difficult time in finding, and particularly in maintaining, housing and

a decent place to live. Their vulnerability due to poverty, illness, substance abuse and other behavioural issues has further contributed to their housing problems. As a result of these factors, they've often been forced to live in inadequate housing situations, including the streets, and have frequently been subject to illegal evictions. Our housing program is mandated to work in these settings with the people I have described above.

We at COTA support the right of all tenants to protection under the Landlord and Tenant Act. However, like many others we have serious concerns about this draft legislation as it pertains to housing settings for tenants sharing their living space, kitchens and toilet facilities and where the behaviour of any particular tenant impacts on the safety of others and their enjoyment of their homes. As front-line service providers, we are often faced with the dilemma that the safety of a majority of tenants is being compromised by the threatening or abusive behaviour of a fellow tenant.

Part of our work is to attempt to work with these tenants to help them develop strategies to change their behaviour somewhat. We likewise work with other tenants in the building, community workers and people providing care to help create environments where tenants can respect and help each other and have some kind of a sense of control over their living situation. However, sometimes, despite numbers of efforts, these strategies fail and fellow tenants live in fear of their safety.

I've put down here an example of the kind of situation we faced just recently, and I could give you many more. One of the co-ops that we work in is a three-storey house with 10 single rooms and common living, dining and toilet facilities. The tenants are all former patients of Queen Street Mental Health Centre. One 35-year-old male tenant began to exhibit behaviour very distressing to the tenants. In particular, he began to stalk another tenant. Our staff described that he followed the tenant everywhere.

This tenant happened to be a member of a visible minority and the remarks that were constantly targeted at this gentleman were quite dreadful. At one point he threw the tenant against the wall, at least on one occasion that we know of, and we suspect that there were others. He was verbally abusive and threatening to other tenants.

We contacted the worker and asked him to come and see him in the home. Whenever the worker came, and it was more than once, the tenant retreated to his room and refused to speak to the worker. Our staff attempted to work with the tenant, who would have no part of it. The police were called, came, but stated that this was a domestic matter and they could do nothing. They suggested the two tenants work things out among themselves. Finally, after three or four weeks of incredible disruption to the household, the tenant became so ill that a doctor was finally willing to sign a form and have him committed to the hospital.

However, during this time other tenants were so distressed that some contemplated leaving the co-op, which is very unfortunate since it's been a wonderful living experience for them and among, they would say, the best housing they've ever had.

One of the solutions often suggested in situations like the one I have described is to call the police and involve the criminal justice system. In our experience, this is rarely a satisfactory solution. Criminalizing those with long-term mental health problems is neither a humane nor a helpful approach. Jail is clearly not the answer, nor a housing option of choice. The reality is also that the police are called frequently to intervene in situations that they are unable, reluctant or unwilling to act in, nor do most of them have the training in mental health to do so.

It is clear to us that society and government, and in particular this committee, are faced with many difficult dilemmas in dealing with the complex issues inherent in the legislation you are about to debate. The protection of individuals' civil liberties clashes with the right of fellow tenants to safe and secure housing.

We believe that it is in the best interests of everyone in our society to find creative solutions to this very challenging problem. We also believe that these problems go far beyond the scope of this legislation and this committee and need the combined efforts of many ministries, and in particular those of Housing, Health, Community and Social Services, the Attorney General and the Solicitor General.

We would like to make the following recommendations regarding Bill 20 as it pertains to tenants in shared living accommodation. I know all of these sound easy and I realize they're not:

That there be in place a mandatory mediation process where safety issues arise in a housing setting and that if no positive results occur as a result of this process, temporary relocation be ordered.

That possibly a number of hostel beds be dedicated to providing temporary shelter to such relocated tenants.

That a fast-track procedure under the Landlord and Tenant Act be available to housing providers if temporary relocation does not resolve safety issues. We feel that many housing providers would be more willing to house people with a history of difficult behaviours if such a fast-track process were available should serious safety issues arise. This could lead to more housing opportunities to this group of people and reduce the possibility that many of their numbers may end up on the street.

As an added recommendation, we wish to suggest that an interministerial committee be set up to study various cooperative ventures among ministries which might begin to address some of the complex problems that are inherent in the housing issues we are facing today.

We thank you for the chance to come and speak.

**Mr Mills:** Thank you, Nancy, for coming here today. I'm also trying to wrestle in my mind some of the problems that keep recurring about incidents that you have pertaining to this legislation. Contrary to what you may have heard, we are here as government members to listen and hopefully do something if there are some concerns here. Is this place where this incident happened subject now to the Landlord and Tenant Act?

**Ms Sidle:** I think in a lot of these areas we feel probably yes, but in many cases it hasn't been tested.

**Mr Mills:** I see.



**Ms Sidle:** So probably yes.

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**Mr Mills:** It begs the question. Folks have come here in those sort of circumstances, with people like you're caring for, complaining that the Landlord and Tenant Act will stop them from coming to grips with someone who's unruly, but you're telling me perhaps that you already have the Landlord and Tenant Act in these cases.

**Ms Sidle:** I think the reality is it hasn't been tested.

**Mr Mills:** In what respect do you mean?

**Ms Sidle:** Nobody has taken leaving to court.

**Mr Mills:** I see.

**Ms Sidle:** In places like boarding-homes and co-ops we have a sense that we're covered but, as I understand it, there haven't been very many tests of the legislation. I could be wrong there. There is some question of whether it was under the Innkeepers Act.

**Mr Mills:** I see that your tenants are all former patients of the Queen Street—

**Ms Sidle:** In that particular setting, yes.

**Mr Mills:** I want to relate that to my riding. I have several of these same types of places where the Whitby Psychiatric Hospital goes to the operators of these places and then it comes in and places them. My constituents are saying to me, "We don't need the Landlord and Tenant Act because now we can't evict anyone anyway." If they've got the situation as you describe here, they call up the Whitby Psychiatric Hospital and say, "We've got a problem here." They zoom somebody down, and if this person can't be resolved, they take him back to the hospital. Why isn't that happening with Queen Street Mental Health Centre?

**Ms Sidle:** That could possibly contravene the Mental Health Act, which says that unless somebody's a danger to themselves or others, and there's a very wide latitude with how people—that's a very big judgement area and a lot of people, physicians included, are very, very nervous in making that determination about at what point somebody becomes a danger. As I understand it, under the Mental Health Act you have to be fairly secure in your belief that the person is a danger.

In a surprising number of instances people are unwilling—one of the problems that happens, for instance, is that there's a serious issue and by the time the police or the doctor get there, the person's sitting having a cup of tea in the kitchen. They're saying, "We didn't see anything happen. Everything's fine." Very often people expect to witness the violence. That's not too realistic because often just the sight of a policeman in a uniform will calm somebody down.

Somebody read this in our agency and said, "You're being hard on the police." I don't mean to be hard on the police. I think we as a society are expecting the police to do far too much. Many of them find themselves in extremely difficult circumstances and they're not sure, nor do they feel they have the backup to act. I think that's very tough.

**Mr Mills:** My last question, before I turn it over to my colleagues, is that what you're really looking for is

some sort of fast eviction procedure.

**Ms Sidle:** I have no easy solution for how that would happen. I think there are things that could be done in the Ministry of Health in terms of crisis management, in terms of educating the police. I think there are a lot of things that need to happen and that's why I was really pushing for various ministries getting together.

**Mr Mills:** I think it's a difficult issue for all of us.

**Mr Gary Wilson:** Thank you very much for this presentation. It certainly raises some important issues, and especially from your experience. I'm interested to clarify this issue of whether the Landlord and Tenant Act applies to at least some of the settings that you work in. It appears that it does, doesn't it?

**Ms Sidle:** I think we act as though we are, under the supposition.

**Mr Gary Wilson:** In other words, you've never tested it that you're aware of. How long have you been with the agency?

**Ms Sidle:** I've been with the agency 16 years, but we've been in the boarding-home business, if I could use that term loosely, since 1981, a long time. We have many years. The situations are infinitely better than they were in 1981 in terms of the types of housing that are available, but some of these issues are very difficult ones and they remain. Sometimes these problems happen in very, very nice housing settings. It's not as though they're dumps or anything.

**Mr Gary Wilson:** That's right. That's what Ernie Lightman found, of course.

**Ms Sidle:** That's right.

**Mr Gary Wilson:** Abuse can happen anywhere, which is the reason for extending the provisions you appear to have already, at least in some settings, to everybody who's in this. We are wrestling with the problem of what to do in circumstances where there are emergencies of one kind or another, and that is one that we're still considering.

The idea, though, of an interministerial committee: There was one struck to consider the recommendations of the Lightman report, and that committee is still monitoring the hearings here and considering the same kinds of issues we're dealing with here at the committee. So it's helpful to have your suggestions.

I guess one thing I was interested in was that you say in your first recommendation that there be temporary relocation of the tenant. Just what were you thinking would be—

**Ms Sidle:** I think sometimes if there was just a place somebody could go and cool out.

**Mr Gary Wilson:** There's no place now like that?

**Ms Sidle:** Not really, short of the hospital or the jail.

**Mr Gary Wilson:** Okay.

**Ms Sidle:** I think the other thing that's important is, sometimes people think it's the landlord who's trying to evict somebody and very often, particularly in the profit sector, interestingly enough, where we work, with vacancies, they want to keep people. It's the other tenants who want somebody to leave if they're really threatened.

It's a very complex issue. Sometimes the landlord is keeping somebody who other people think they're afraid of. It's very complex, the whole situation, and there's not an easy solution; I know that.

**Mr Daigeler:** It would seem to me, without perhaps oversimplifying what you're saying and what many others like you have said, that your life and the life of the people who are living in these homes who you're looking after are already difficult enough as it is, and really, "Government, don't make it even more complicated." I think that's what you seem to be saying.

All I can say is that Mr Mills has indicated that the government is here to listen and willing to listen, and we certainly hope we will see concrete evidence of this when we come back in two weeks with amendments, because I think this clearly is an area that cries out for some adjustment.

In fact I'm surprised that the minister would not have found a better balance in her original draft of what she's trying to do and the concerns you and many others before you have expressed. With regard to that, I think we have clearly heard it. The government says it has heard it and it has said that it's listening. So we'll look for the evidence.

You did make a comment at the very end of your brief. I presume it doesn't quite relate to Bill 120, but I'm just wondering what you meant by it, that second-last paragraph that you have there where you say, "We wish to suggest that an interministerial committee be set up to study various cooperative ventures among ministries which might begin to address some of the complex problems that are inherent in housing issues."

What did you mean by that?

**Ms Sidle:** I guess I meant things like I said. One of the things that we think, for instance—and I know the Ministry of Health is addressing this in its reform—is the need for crisis management services. If in fact there were more services that could go out and deal with problems in the home before they escalate, that might mitigate some of the problems that happen later on, because what we're trying to do is not dehouse people but get them help, and our hands are tied. I think the Ministry of Health could play a role there.

Working with the police: I'm not sure that people recognize the kinds of situations that police have to deal with, and I think something around looking at training in police colleges around how to handle situations, or maybe, I don't know, mobile units with a policeman and a crisis worker who could deal with some of these issues.

I think there needs to be interaction between ministries on some of the issues, because they're not all going to be solved by the Attorney General or the Ministry of Housing.

The interface between having support services available is another big issue. Very often housing units are supported, but there is not always funding for support services to link up with the housing units. We're all aware of the crunch in terms of fiscal resources, but it's really looking at some of those issues, and they are cross-ministerial.

When you start to write a brief like this, you realize it's very easy to come and give advice; it's another thing to come up with a formula that's going to make everybody happy. We are really concerned that we don't make it harder and harder for the really hard-to-house to find a place to live, because it's not easy to provide a setting where they can manage, frankly, some of them.

**1520**

We're talking about some of the more difficult behaviours. We're just worried that if it becomes too tight, people just won't take them. The bells will go off and they'll think, "We don't want to give this guy a place." They won't give them a chance in the beginning. I think in order to do that it really involves a lot of planning across government services. As I say, I don't have an easy solution.

**Mr Daigeler:** I appreciate that point and I think it's a very good point that hasn't really been mentioned so specifically before. I think this is a very excellent reminder of what perhaps could be done.

**Mr David Johnson:** I'd like to thank you for the deputation. I think it shows some of the real practical day-to-day problems your organization faces. Certainly your organization is giving some excellent support in Metropolitan Toronto, where support is really required, to the hard-to-house.

I wondered, looking at the third page of your deputation, where you talk about one unfortunate circumstance of the person who was being very disruptive and who was abusing one of the other tenants, and I guess you indicated that after about three to four weeks you were finally able to come to a solution on this, but if the Landlord and Tenant Act was in effect on this residence, as Bill 120 would have it, and if you had to go through the eviction process in the Landlord and Tenant Act at that point, which I understand can take three months to a year, then what would happen to your program?

**Ms Sidle:** What has happened in some instances, which is very upsetting, is that other tenants leave. The problem tenant stays and the other tenants go, which is hardly fair, because they're afraid. Sometimes it's the ladies who leave. We do have only 20% women, but sometimes they feel more threatened in these circumstances, and they just go rather than deal with the situation.

**Mr David Johnson:** This must have an impact on the overall objectives of your program then, I would think.

**Ms Sidle:** What I say when people ask me is that keeping people housed is one of our big things, because the people we see have had a history of being on the slippery slope of their housing gradually becoming less adequate, often as their illness progresses.

**Mr David Johnson:** Your program is funded, as you indicate on the front page, by the community mental health branch of the Ministry of Health. So the Ministry of Health is your primary funder.

**Ms Sidle:** Yes.

**Mr David Johnson:** You've just described to us circumstances that certainly, if Bill 120 were brought forward, would make it difficult for you to put forward



the program you're supposed to do. Since your main funder is the Ministry of Health, has the ministry expressed concern about the possibility or the consequences of Bill 120?

**Ms Sidle:** I'm not sure, actually. We're going to the ministry tomorrow. I think their sense is that it's not their bill, that it is a Housing bill, but I think various of us are taking our concerns.

We have an extremely good relationship with the Ministry of Health and it has been very supportive. I think they recognize what the problems are here. In fact a group of us are meeting with them tomorrow to talk about some of the concerns we have. They have been made aware that there are concerns in many housing providers and support providers about the impact of Bill 120.

**Mr David Johnson:** So your sense is that they may share the concern.

**Ms Sidle:** That I can't tell you. But they've been very receptive to our plight and I think they, like everybody, recognize—I mean, it's a balance we're looking at. I think the ministry has been aware of the fact that many of these folks have been de housed and evicted a lot and they're concerned about that as well.

**Mr David Johnson:** You indicated at one point that maybe people won't take certain of the hard-to-house. One of the refrains we've heard through some of the other deputations is that if Bill 120 comes in as it's proposed, with the Landlord and Tenant Act, operators of facilities such as yours may have to be more selective in terms of the people they choose.

If there's some doubt as to whether a person could be disruptive and if the Landlord and Tenant Act applies and you really can't deal with them, can't get them out, and if there's no fast-tracking, for example, then certain people may be passed over. Higher-risk people may be passed over. I wonder if you thought that was a possibility.

**Ms Sidle:** I think that's why we're proposing a fast-track. Our solution is that if you cover everybody, then you make it possible. In our experience, very often if operators think they have a backup to deal with a difficult situation, they're okay. But very often people come from the hospital and they are just sort of left on the doorstep and there isn't support if there's a problem. So I think our solution is to cover people but then have some method of handling—particularly in settings where you have a whole lot of vulnerable people, that's probably the solution. The working out of it is not an easy one.

**Mr David Johnson:** It may not be surprising that we've had deputations—

**Ms Sidle:** A million of them.

**Mr David Johnson:** Yes, probably about a million of them. Some of the deputations have recommended that all tenants, regardless of shared accommodation, rehabilitation programs, care programs, any circumstances, should be covered by the Landlord and Tenant Act, bar none.

The best I can make of it is that when you raise the kind of problems that you face, the real problems that you face, the response comes back, "It doesn't happen

very often," or "It hardly ever happens and it can be dealt with in some fashion, but don't worry too much about it because it's really not much of a problem, it hardly ever happens." What would your response be to that?

**Ms Sidle:** From what I've heard, I think it does happen, and I always say the fast track may get a little crowded, and that's one of the concerns. If everybody is trying to use the fast track, I realize it can be abused.

We have no illusions about the fact that it's not a simple solution. But to me the solution is to cover people and then provide some options for dealing with something that's a lot quicker, and maybe at the same time do some of these other things. That's why I think its coordination is possible, because if you have police who are better trained to deal with it and maybe crisis management services that can head off some of the problems—it's all part of a package. It's not just one thing. That way maybe we could keep everybody happy.

**Mr Tilson:** I have a question on the topic of fast-tracking. This term has been used by many delegations and none have been able to suggest a procedure. I quite frankly can't think of one either and, as you've indicated, I don't think you can either, because it's a very difficult thing to deal with.

I think the committee received a written submission by the Ontario Homes for Special Care Association. I don't know how familiar you are with them. They go much further than what you and some of the other groups are saying. They simply say exempt these places from it. In other words, and they haven't said it, but reading between the lines, I don't think they think fast-tracking is possible.

They also talk of several other things. I'd just like to read a brief paragraph and see whether you agree with them. This is a written submission by Tim Harris, who is president of the Ontario Homes for Special Care Association, which has been filed with the committee, I believe:

"If Bill 120 were passed without excluding the regulated and controlled care giving homes (especially those licensed under the Homes for Special Care Act) but also including second-level lodging homes, CMHA-operated homes, approved homes and self-regulated retirement homes, it will seriously impede, if not totally negate, the fundamental delivery of care. In short, passage of this bill into law as drafted would destroy the homes for special care program and would do damage to other programs which provide care for the seriously mentally ill."

So they go considerably further than what you say.

When you read the wording of the bill, and I've hammered away at this in the committee, and what the bill is called, the bill is called An Act to amend certain statutes concerning residential property. We all understand what that is. Actually, it started off with the term "granny flat" and it has expanded into other things.

That's a whole other argument, but now we're into health matters, mental and physical health matters. You've commented that you're visiting the Ministry of Health. I'd be interested in hearing your comments after meeting with them, because we—the members on the opposition side, at least—have been trying to get comments from the Ministry of Health.



I don't think there's been any consultation at all with the Ministry of Health, particularly when such a large part of this bill deals with the people who you are providing care for. Could you comment on the exemption issue, which goes considerably further than what your presentation has made.

**Ms Sidle:** My sense is that people shouldn't be exempt. That's my own personal bias. I understand where the homes for special care people are coming from, but I don't think in the 1990s that one sort of sails. I think, with proper supports, that one can function under the Landlord and Tenant Act as long as there's a safety valve. Without the safety valve, we're in trouble. I would be less than honest if I said that.

**The Chair:** Thank you for coming today.

1530

#### ETOBICOKE HOUSING HELP CENTRE

**Ms Kasia Filaber:** Good afternoon. My name is Kasia Filaber. I am a member of the board of the Etobicoke North Community Information Centre, which is the sponsoring agency for the Etobicoke Housing Help Centre. On my left is Mr John Bagnall, the coordinator of the housing help centre, and on my right is Mr Ahmed Samater, who is one of the workers of the housing help centre. I'll pass it on to John to present to you.

**Mr John Bagnall:** I want to thank the committee members for this opportunity to address the standing committee on general government in regard to Bill 120. We are here today on behalf of Etobicoke Housing Help Centre to give our strong support for the provisions of Bill 120 that deal with apartments in houses.

Etobicoke Housing Help Centre is a front-line housing service with a catchment area that includes the whole of Etobicoke. The work we do at the help centre involves operating a housing registry that provides a listing service for landlords in Etobicoke and for people trying to locate housing.

It involves helping people with housing searches. It involves providing information and referrals in relation to a variety of housing resources. It involves helping people with housing applications and other aspects of the process for accessing assisted housing. Our work also involves community education to help ensure that tenants and landlords are aware of their rights and obligations under provincial legislation such as the Landlord and Tenant Act.

Staff at our two help centre office locations, in Etobicoke North Community Information Centre in northern Etobicoke and in YMCA ASK in southern Etobicoke, respond to more than 250 requests for housing help each month. While we work both with private landlords and with people looking for housing, the nature of the services that we provide brings us into frequent daily contact with many people who are experiencing severe barriers in accessing housing.

More than half of those listed with us as seekers, that is, people who are looking for housing in Etobicoke, receive social assistance or some other form of government assistance. Almost one third of our seekers are sole-support mothers. Many of our clients are new Canadians

and members of visible minority communities that include the Somali community, the Jamaican community, the East Indian community, the Hispanic community and many others. In addition to English, we provide services to clients in Somali, Arabic and Polish.

We support the provisions of Bill 120 that deal with apartments in houses, first and foremost because of the urgent need to provide legislative protection for the rights of tenants in basement apartments and other apartments in houses. We know from our housing work in Etobicoke that basement apartments make up a major part of the relatively more affordable component of the private housing market that we deal with. For many people in moderate and lower-income situations that we help through our services, for new Canadians, for sole-support mothers, for working couples and for young single people, basement apartments represent the only available affordable housing.

Despite this fact, the tenants of basement apartments and other apartments in houses do not have effective protection of their rights as tenants because of the lack of provincial legislation governing these apartments. The fundamental problem here is that the current status of apartments in houses as technically illegal units creates an environment in which many tenants of these units are afraid to assert and exercise their rights in a normal way that is required for a healthy landlord-tenant relationship.

The source of this fear is the threat, which is always present in relation to technically illegal units, that any disagreement with a landlord could potentially escalate into a situation in which the tenant's unit would be closed down and the tenant would be made homeless. The result of this is that in many cases where minor matters between tenants and landlords could be dealt with quickly and easily to the satisfaction of both parties, they are not, and consequently problems are allowed to fester. It also means that if a case arises where a landlord is badly motivated and has no regard for the interests of the tenant, major abuses can occur.

We believe that this situation disempowers the tenants of apartments in houses in a basic way. For many people living in basement apartments—for new Canadians, sole-support mothers, working couples and young single people—the lack of protection of their rights as tenants compounds the difficulties they already have to deal with in terms of the problems of poverty, of racial discrimination and other forms of discrimination and of adjustment to different institutions and practices in a new country.

We believe that Bill 120 represents a major step in remedying this situation by helping to ensure that tenants of apartments in houses have effective protection of their rights. At the same time, we believe that Bill 120 will also provide appropriate and needed legislative protection for landlords of apartments in houses.

Many of the landlords of apartments in houses we deal with are small landlords. They include seniors, young families starting out as home owners and, in some cases, single parents. These landlords may depend on the rental income they receive to be able to remain in their homes after retirement or to help pay the mortgage on a new home or for the education of their children.



Bill 120 will help to ensure that the rights and responsibilities of landlords are clarified and that landlords of apartments in houses who conform to appropriate property and building standards will be able to carry on their activities in an atmosphere of reasonable security as law-abiding citizens. This legislation will also recognize the right of home owners, as individual property owners, to decide for themselves, subject to appropriate property and building standards, whether they are going to have an apartment in their house.

While we strongly support Bill 120, we also believe this legislation is only one element of an effective strategy for meeting housing needs in Etobicoke and other parts of Ontario. We urge the Ontario government in addition to maintain and strengthen its commitment to the development of cooperative and non-profit housing as a vitally important means of meeting the housing requirements of a variety of people.

The issue of apartments in houses has been a recurring item on the political agenda for several years, going back at least to the late 1980s. There has been a great deal of debate and discussion on this matter, a great deal of coverage in the media and numerous government studies. From all this, it seems to us that two conclusions emerge.

Firstly, apartments in houses are a reality in Etobicoke, in other parts of Metro Toronto and elsewhere in the province. These apartments represent a significant part of the private-market housing stock that many people depend on to have a place to live, including many new Canadians, sole-support mothers, working couples and single young people.

Secondly, the status quo clearly isn't working. Action is needed now at the provincial level in the form of legislation to ensure that tenants and landlords of apartments in houses are protected and that appropriate standards are enforced. We believe Bill 120 represents a major step in meeting this need and deserves strong support.

**Mr Daigeler:** Thank you. I think you're quite clear where you're coming from. Do you have any concern about the element where this bill will apply to what one may vaguely call rehab centres or boarding homes, this kind of thing? Do you have any comments on that part?

**Mr Bagnall:** We're strictly here in terms of the aspects of Bill 120 that deal with apartments in houses. We're not dealing with the other issue of care facilities.

**Mr Daigeler:** Not the care facilities, but rooming houses, group homes, various housing providers that have an element of care in their services have come before the committee and said that Bill 120 is going to make it very difficult for them to evict certain tenants who are causing problems with the rehabilitation side. I'm just wondering whether, as a housing help organization, you have come across this problem at all and whether you have any comments to make on that particular aspect.

1540

**Mr Bagnall:** We're strictly here to express views on the section that deals with apartments in houses.

**Mr Daigeler:** In your municipality, how many illegal apartments are existing at the present time?

**Mr Bagnall:** It would be difficult to arrive at any exact estimate. If you looked at a proportional basis and you said proportional, let's say, to the number that is estimated for Scarborough, and you assumed there was a proportional correlation in terms of the populations, you could estimate 12,000 for Etobicoke.

**Mr Daigeler:** Of course you don't know exactly who is illegal and who is not, but could you give us an assessment? Are these landlords coming to you advertising their apartments? Are you at the present time also acting as referral agencies for these landlords?

**Mr Bagnall:** Yes, we're listing apartments that include basement apartments in terms of our services.

**Mr Daigeler:** Do you ask if it's legal or illegal?

**Mr Bagnall:** We don't ask that specific question, no.

**Mr Daigeler:** Wouldn't there be presently some basement apartments that are legal? Are there areas in Etobicoke where they are legal?

**Mr Bagnall:** That may be, yes.

**Mr Daigeler:** So you don't really know whether an apartment is legal or illegal.

**Mr Bagnall:** I know the vast majority in Etobicoke under the existing situation, are technically illegal, yes.

**Mrs Margaret Marland (Mississauga South):** Etobicoke is very similar to Mississauga. I'm very familiar with Mississauga and it surprises me when I hear from people who are promoting basement apartments because it's the only affordable housing, to use your own words a few moments ago.

Yet if you look in the newspapers, people are now paying as much and in some cases more for a basement apartment as they are for apartments in buildings. Would you agree that the vacancy rate in apartment buildings is now close to 2.8% in Etobicoke and Mississauga?

**Mr Bagnall:** I wouldn't agree that's been the experience we've had as an agency that works directly with people who are in housing need. Our experience is that the large majority of the units that are affordable to the people whom we're trying to help are basement apartments or apartments in houses. That's certainly been our experience. I think it probably corresponds to the experience of the other help centre as well that presented before, the Scarborough Housing Help Centre, that those units are the more affordable ones. I can tell you that's been our experience so far in terms of Etobicoke.

**Ms Filaber:** If I may add, vacancy rates are floating rates and they might be high now, but they will not be in the future and they were not in the past. So apartments in houses quite often are the only available option for people. It also depends on the area where the houses and the buildings are. Quite often it might be very inconvenient for people to go to another part of Etobicoke just because there are buildings there. They would rather live in a different part, closer to their employment.

**Mrs Marland:** It's also true that some people like to live in single-family home areas. Would you agree?

**Ms Filaber:** Definitely.

**Mrs Marland:** So it's rather interesting that those single-family home areas are now going to be changed



just by the creation of basement apartments.

**Mr Owens:** It has already been changed.

**Mrs Marland:** Well, there is going to be a change because they are no longer single-family homes; they're now duplexes.

**Mr Owens:** What's the reality now then?

**Mrs Marland:** Actually, I'll look forward to debating it with you when we get to clause-by-clause, Mr Owens.

Are you saying the tenants have been disempowered of their rights when they live in somebody else's house?

**Mr Bagnall:** No, that's not it. Because of the situation now where it's a technically illegal unit, that's what disempowers the tenants. It's the fact that they aren't subject to the governing provincial legislation.

**Mrs Marland:** You're concerned about the supply of affordable space for people to live in. I'm not talking as much about the existing apartments, because none of the existing apartments meet fire code standards, so we don't want any of those to continue the way they are.

What I would like to ask you about is creating new basement apartments which have to meet the fire code. Of course, there will be considerable cost to creating basement apartments which will meet the fire code because of the special wall treatments, the special fire separations, and we've talked a lot about the egress, the methods that are available for egress.

When we're talking about a newly created basement apartment that will meet the requirements of safety in order for people and families and children to live in those basement apartments for accommodation, do you foresee that being an inhibitor for people to create those apartments because they will now be double or triple the cost of the existing illegal ones that don't meet any code?

**Mr Bagnall:** We don't share your estimate at all in terms of these cost numbers you're throwing out here. We think that, on the contrary, you're going to find in the large majority of cases that smaller, if any, costs are going to be required in terms of the necessary upgrading in terms of meeting standards.

**Mrs Marland:** Who have you discussed that with?

**Mr Bagnall:** I think we need to keep our mind focused on the real issue, the big issue, which is the existence of these large numbers of units occupied by people who are disempowered in these ways. We don't foresee that there will be a significant addition in terms of new numbers. We think the main issue is the situation that exists now in terms of these units that are providing affordable housing for these people.

**Mrs Marland:** Are you not concerned about the safety? My issue and the issue of our caucus is the fact that on the one hand you have these illegal units which do not meet any fire codes and we don't even have the power of entry under this legislation that we need.

We have this situation on the one hand; on the other hand you're looking for affordable housing. What I want to ask you is, who have you been talking to that your opinion is that it's not going to cost very much to bring these existing units up to make them safe in terms of fire and building codes?

**Mr Bagnall:** I've been involved myself in terms of this issue for quite a while and I've read quite a few government studies in terms of what the implications are in various areas.

**Mrs Marland:** But have you been talking to somebody about actual building costs and the fire department about what their requirements are?

**Mr Bagnall:** The estimates I have seen are nothing like what you're talking about. The estimates I have seen are that it would be much more modest in terms of the necessary modifications that we make. But then it gets back to your point, that the existing situation does not allow us to address these issues at all. We're in a situation now where the status quo situation, which you're really implicitly supporting, doesn't allow us to address the safety issues or any other issues.

**Mrs Marland:** Sir, I'm not supporting the status quo and it's not implicit in what I'm asking. If I were supporting the status quo, I wouldn't be talking about the fact that I believe this affordable housing, which you support, is actually going to be diminishing because the public will not be able to afford it.

That's why I wanted to ask you, and you haven't answered my question, about where did you get the costs. I'm saying it will cost two or three times as much to create this new basement apartment than it has in the past because there have been no fire requirements in the past, and you're saying, "No, that's not our understanding." But if that's not your understanding, I think you have to give us a basis. Maybe you have a better basis of information than I do and that's why I'm asking you who told you that it's not going to cost very much to bring them up to standard because, I can tell you, the fire chief in Mississauga hasn't yet been in a basement apartment that met anywhere near the fire code requirements. I'm just wondering who your information source is.

**Mr Bagnall:** From what I have seen, the estimates that I have seen, it just does not correspond with what you're throwing out there, the figures. All I can say is that our experiences are in conflict on this issue.

**Mrs Marland:** Where did you see the estimates?

**Mr Gary Wilson:** You might want to know from Mrs Marland what her sources are. I guess she missed the one just before who estimated it could be as low as \$38 for a smoke detector that would allow—

**Mr Mills:** He said \$80.

**Mrs Marland:** The fire department is not going to accept just a smoke detector.

**Mr Gary Wilson:** And he was talking about \$200 for drywall for various things. The point is, I think you're saying they can be relatively low amounts to bring it up to standard. For those that aren't at standard already, there's nothing to say they're not.

**Mr Bagnall:** Those are the kinds of estimates I'm familiar with.

**Mr Gary Wilson:** The point that is so important here is, by making them legal at least we are going to have some process to see what are the circumstances there and bring them up to standard, which makes so much sense.



**Mr Bagnall:** Exactly.

**Mr Gary Wilson:** I really like your emphasis that it's not only the tenants but also the landlords who have a stake here in making sure that the units can be rented out in safe and healthy circumstances. I would be interested, though, to hear from your ground-level approach, as it were, what the sense is that you have of the community for support for legalizing accessory apartments.

1550

**Mr Bagnall:** Certainly I know in terms of our own contacts in Etobicoke, we have a housing issues committee that meets regularly to discuss issues in this area. There are a number of community groups and agencies that are very concerned about this issue. The community health centre and the legal clinics as well, of course, have been very active. The women's centre and quite a large number of agencies have been concerned about this issue, the women's shelters as well of course.

It's been an ongoing concern because we're dealing on a daily basis with people who are experiencing difficulty accessing housing and this is something that really impacts on their lives.

**Mr Gary Wilson:** Have you ever wondered why municipalities have been, say, reluctant or hesitant about legalizing the apartments in their communities since there does seem to be widespread support for it?

**Mr Bagnall:** It's difficult; there are probably a number of factors involved. It could be a number of considerations that are affecting how they're doing, what they're doing or what they failed to do. I believe fundamentally, though, that this stage we've reached is that it's going to require action at the provincial level, that we've really gone past the stage when we can really talk about any kind of solution in terms of what has been discussed before. We really have to look to the provincial level in terms of action, in terms of addressing the problem.

**Ms Filaber:** I think part of it is also the denial that we need a larger housing stock. Part of it is also a point that this lady made that people like to live in single-family dwellings. But it's also a denial because apartments in houses already exist. If people like to live in single-family homes, they can; nobody's going to force them to have an apartment. But if they want to, they could open—what we want is for the apartments to be up to standards.

**Mr Fletcher:** What you have is a difference of opinion. I'm not going to try and persuade you one way or another as far as what Mrs Marland was saying. The fire marshal was in yesterday. I have the red book here, mauve book.

Section 18.3 is a recent addition—I'm just reading what he said—to the Fire Marshals Act in 1991: "If the fire marshal or an officer has reasonable ground to believe that a risk of fire poses an immediate threat to life, he or she may, without warrant, enter any land or premises and, for the purposes of removing or reducing the threat, may" take minor corrective action.

Then he went on to say: "We do agree that in some cases entry may be delayed by, for example, someone not being home or refusing entry. To our knowledge, the

latter case would be a rare occurrence." They're not saying it's going to happen all the time, but it may happen.

Once these apartments become known and legal, if there's a problem, tenants are going to start complaining.

**Ms Filaber:** Exactly. Then we'll make sure that somebody can enter the apartment.

**Mr Fletcher:** But not all tenants. We're still going to have a problem with tenants not knowing their rights, so the education of this has to be—are you going to be involved in the education of—

**Mr Bagnall:** It sounds like part of our work, yes.

**Ms Filaber:** It's our mandate.

**Mr Fletcher:** As far as your organization is concerned, when you start your education process, where are you going to start aiming? At the government level? At the local level or at the tenant level?

**Mr Bagnall:** I think we would be naturally focusing especially on a tenant level, but we also will have the opportunity, because we do work with landlords, to do considerable work in that area as well. But it's going to be especially tenant groups that have been hard to reach in the past in terms of various barriers and so on to make sure they're fully aware of their rights and are able to exercise them.

**Ms Filaber:** We'll probably need to do some education on the government level too, I think.

**Mr Fletcher:** I think so.

**Mrs Marland:** Would you like to see owner-occupied?

**Mr Bagnall:** No restrictions. No, we don't want that restriction.

*Interjection.*

**Mr Bagnall:** It's not in there.

**Mr Owens:** In terms of disseminating material, I think you've just identified the issue with respect to people being hard to reach and identifying what is a unit and how do you get the educational material out to people when there is this kind of great unknown out there in Scarborough, the area I represent, and we're talking somewhere between 10,000 and 14,000 units.

How do we determine where these units are? What's the best way to get educational information, both into the hands of the landlord and the tenant and in terms of again the cultural diversity that Etobicoke sees, that Scarborough certainly sees? How do you address those issues as well?

**Mr Bagnall:** I can see definitely the educational stages. It's going to be important to work through the help centres because there are help centres in individual municipalities who deal directly with landlords renting basement apartments. That will be a natural source in terms of distributing information and getting into contact with the landlords.

I can see workshops, I can see mailings in terms of using the mailing list of existing help centres and I can see other efforts to, and perhaps locally especially, draw attention to it maybe using local newspapers and so on.

**Mr Owens:** What about municipalities setting up a registry, for instance, that would serve two purposes. One, they would identify the units for the purposes of inspection, then again you would have a tangible block to deal with and start with the register tenancy. Do you see a registry as being helpful in that respect?

**Mr Bagnall:** Yes, I could see that could be a useful thing. I hadn't reconsidered it, but—

**Ms Filaber:** We haven't talked about this, but then you don't register all the units in apartment buildings—

**Mr Owens:** That's right.

**Ms Filaber:** —so I'm not sure why you would want to register these units. It would add to the cost.

**Mr Owens:** I'm certainly not looking to set up two standards of law, which some of my friends across the hall there would like to do. I guess my question is in terms of ensuring that accessory units are up to the standard—we know there's a problem in many of the high-rise buildings meeting the standard—just as a way to allow tenants or prospective tenants to see the residence has been inspected and, second, as again a method to get information. We do have the rent registry for high-rise private rental that people can check, so there is in fact some level of registration taking place.

**Mr Bagnall:** I think a lot of it is going to be empowering tenants. Tenants are ones who live in the place so they know what the issues are. I think once they're empowered, then they're really going to come forward and that's going to be addressed.

**The Chair:** Thank you very much for appearing before the committee today.

1600

#### METRO TORONTO CHINESE AND SOUTHEAST ASIAN LEGAL CLINIC

**Ms Avvy Go:** My name is Avvy Go. I'm the clinic director of the Metro Toronto Chinese and Southeast Asian Legal Clinic. I submitted a written submission, so I hope members have had the opportunity to look at it.

**The Chair:** The clerk has informed me that he has not seen that written submission.

**Ms Go:** I sent it in two or three weeks ago. I have a copy here.

**The Chair:** The members probably already have it then.

**Ms Go:** Okay. Anyway, I'll just briefly go through the brief and I'll begin by talking a bit about the clinic. We were formed in 1987, and our mandate is to serve low-income people from the Chinese, Vietnamese, Cambodian and Laos communities in the Metro Toronto area. Our target are the immigrants, refugees and other Canadian citizens and landed immigrants from these communities who belong to the low-income group. They cannot access other legal services because of the language barriers, so they have the additional language plus class and race barriers that they face.

From my experience, one of the major issues to these communities, especially the immigrants and refugee communities, is the issue of housing. That is why we're here today, because it's of main concern to these com-

munities. Because of the unique position that our clinic plays within the Chinese and the Vietnamese communities, we were invited to sit on the inquiry that was held by the Inclusive Neighbourhoods Campaign, which was held in June 1993 last year.

We heard a lot of submissions and deputants who made presentations to the inquiry about the housing issue and particularly about illegal apartments in houses, issues around that. It is also our experience that as far as Bill 120 is concerned, that was one of the key areas that is of concern to our communities. So my presentation will focus solely on the issue of apartments in houses.

Our position is very simple. We support legalizing apartments in houses. So as far as that is concerned, we support Bill 120. There are several basic reasons why we came to that position.

First of all, we believe that housing is a basic human right. I included in my brief the UN declaration of human rights, and part of that deals with standard of living. The Canadian government is also a signatory to the UN declaration, as we all know. We believe that part of the basic living standard includes housing, and decent housing in particular. So we have a national obligation to provide decent housing to the residents in Canada. Unfortunately, of course, we don't have that situation right now. A lot of people are still very marginally housed, and some of them are not housed at all. Short of any socioeconomic reform and radical changes, we're not going to see any immediate changes to that situation.

However, the least that the government can do, besides spending more money on affordable housing, is to provide a greater supply of housing through encouraging home owners to rent out parts of their houses. If we continue to outlaw apartments in houses, then that's not going to happen, and maybe it will happen but only secretly. That was one of the key issues, housing as a basic human right.

The second reason for our supporting the bill is that it will end discrimination in housing. As we all know, there are over 100,000 illegal apartments in the province. During the inquiry we listened to a lot of presentations made by tenants' groups and environmental groups talking about the situation of tenants living in illegal apartments right now, because at the same time they're not recognized as legal tenants, so they're not, strictly speaking, protected by the Landlord and Tenant Act.

From time to time we have clients asking that question: "Should we take the landlord to court? They didn't give me the water, heat, or whatever." Sometimes when tenants take these cases to court they will be turned away by the court because they're not recognized as living in apartments that are protected under the Landlord and Tenant Act.

But at the same time on a day-to-day basis tenants are being harassed or being denied basic utilities and other basic services that other tenants take for granted. For that reason we think we should not develop two different classes of tenants: ones who are protected by the act and the others who are not. It is simply unacceptable that the government will allow that to happen.



There is another aspect of the discrimination as well which is more subtle and may be intended. One of the exclusionary parts of the bylaws in the municipalities is that it doesn't allow having in a house more than one family unit, and a lot of times it means the nuclear family. But in my community, the Chinese community, and many other immigrant communities we have an extended family network. That is not seen as a family unit. By excluding or limiting a family unit to being one family unit, we are excluding other family networks such as the extended family network.

There is also another part of the discrimination which is that when people talk about, "We don't want illegal apartments or we don't want tenants in our neighbourhood," what they are talking about is, "We don't want blacks, we don't want Chinese, we don't want low-income people, we don't want single parents," and so on and so forth.

The issue is more or less disguised in the form of a tenancy issue, but really it is an issue of keeping the neighbourhood homogeneous: middle class, white, a nuclear family type of neighbourhood. That is often the basis for excluding or disallowing apartments in houses, and we think we should not condone those kinds of practices by continuing exclusionary zoning and planning bylaws.

The last reason why we think it is important to legalize all these apartments is that it is really a health and safety issue. I think that we are really hiding our heads in the sand if we think that we can just get rid of all these illegal apartments by declaring that they are illegal.

The reality as it stands now is that there are hundreds of thousands of so-called illegal apartments and they would not go away even if Bill 120 is not passed. So tenants will continue to be living in these situations where they don't get any protection and they cannot force the landlord to obey the city's health and safety bylaws and other safety standards, just like this incident that took place in Mississauga over Christmas. I believe that is a direct result of illegalizing the apartments in that situation. For that reason also, we think we have to take immediate action to protect tenants in these situations by recognizing that they are legal tenants.

In terms of implementing Bill 120, we're also very concerned that tenants be made aware of the rights that they are entitled to, because even right now tenants are extremely reluctant to come out and take the landlords to court or take other legal action to protect their own interests. If they do not know that they are entitled to that, then they will never do it.

I think it's important that in implementing Bill 120 the government also starts introducing some kind of public education campaign around Bill 120 and around tenancy issues in general so the tenants are aware of their rights and they can exercise their rights.

1610

**Mr David Johnson:** I'd like to thank you for your deputation. You've raised a number of issues. You've indicated support for Bill 120. I might say that I actually haven't heard anybody in any of the deputations we've

heard up to this date indicate outright opposition to accessory apartments, full stop.

We've heard a number of municipalities that have been in support, and all the municipalities that have come forward in support, but with certain conditions that recognize local situations. I wondered where you might stand on those.

For example, I recall the mayor of Ottawa came forward to us and indicated that there are certain areas in Ottawa, in her city, where there was a great deal of basement flooding, and she expressed concern that basement apartments should be permitted in an area like that. I wondered what your view on that sort of situation would be. Do you think municipalities should have some authority to have a program but have some restrictions, for example, in an area like that?

**Ms Go:** When we say that we want to legalize the apartments, we are also making it very clear that they have to be up to a certain standard. If it's a situation where the apartment or the location of the house is such that you will never be able to build an apartment within that will meet the safety standards, then of course that should not be allowed.

I think we are concerned that municipalities will have a blanket policy of excluding a certain neighbourhood or a certain district from Bill 120. We would rather see municipalities enforcing health and safety bylaws and other bylaws that will protect or prevent basements from flooding, and maybe it's not basements; it's some other housing situations. I think that can be dealt with without making sort of a district or neighbourhood type of exclusion.

**Mr David Johnson:** Another issue that has come up is parking. I didn't quite fully grasp your answer but maybe I will on parking. There are certain areas, and I think of my former municipality, for example, in East York, where on some streets there are far more cars than there are parking spots, and even with the permit street parking program many people simply can't get a permit because there are more cars than there are spots. In an area like that, there has been a great deal of concern expressed by allowing more apartments to go in in a situation like that. Is that something that would be of any concern to you?

**Ms Go:** I remember reading certain studies that show that there's no correlation in terms of the increase of traffic and the increase of tenants because most of the time tenants don't have access to a car. Usually it's the landlords who have the cars. It reminds me also of many other public hearings that I've been to when they talk about, say, co-op housing, low-income housing, even nursing homes. Parking or traffic is often used as a reason for discouraging the building of a nursing home, like in Scarborough, the Chinese nursing home, or some kind of other low-income, affordable housing situation.

I don't think that kind of claim can be supported in reality, given that tenants are usually not the ones with access to an automobile. But I also think that even if there will be an increase in traffic, it still can be controlled with other laws, as opposed to just excluding people from that area.

**Mr David Johnson:** It's certainly not traffic; it's the parking that is the concern. There's no question that some tenants do have cars.

**Ms Go:** Right, yes.

**Mr David Johnson:** If we're making a statement that all tenants don't have cars, I think we're obviously exaggerating.

**Ms Go:** No, that's not what I said.

**Mr David Johnson:** The fire chief of the city of Mississauga indicated to us early on—and you brought up the case in Mississauga—that in his view the entry rights that are contained in this bill would not be sufficient to ensure that safety could be guaranteed in basement apartments. So I guess we have a situation where certainly some fire chiefs feel that this bill is not going to permit municipalities to ensure that there is safety in apartments.

I wonder, if we go ahead and implement this bill the way it is now and the municipalities still don't have the power to be able to ensure safety, then is that a satisfactory arrangement?

**Ms Go:** To some extent I also agree with the chief, because even tenants in legal apartment situations sometimes are living in conditions that are simply not safe. There is a very true and real enforcement issue out there, partly because tenants are reluctant to come out to complain and partly because the enforcement is not strengthened enough.

I think if that is the concern, we have to deal with it. Whether it's in the bill itself or whether it is providing more resources to municipalities to enforce safety standards in whatever way, I think that should be dealt with. But again, I don't think that should be a ground for disallowing or illegalizing the apartments, because I don't think that will solve the issue.

**Mr Owens:** Thank you, Ms Go, for your presentation. Your work in the Chinese community is well known and much appreciated. The issues with respect to parking density, overutilization of services, all the myths that people like yourselves and your colleagues who have presented before you, and we have another Scarborough group coming before us after your presentation, you've exploded quite nicely.

As a matter of fact, I conducted a basement apartment consultation of my own last summer and a question was asked of the opponents with respect to parking. If you have sort of the nuclear family, the white Irish Catholic family, for instance, that has three or four kids and they all have cars, why is that different? Why is that not a parking issue in the same way as an accessory apartment with a singular tenant who may or may not have a car? Why is that an issue?

Dealing with the Chinese community, and I guess I'm becoming a broken record in terms of communication and ensuring that both landlords and tenants are aware of their rights and their obligations, do you have a sense or a suggestion that you could make to the committee that we could pass on to the Ministry of Housing that would be helpful in the educative process?

**Ms Go:** In terms of the clinic itself, from time to time

we conduct workshops, but our target is strictly tenants because of the mandate of the clinic. We also produce brochures. We just had a new one—we called it Tenant Self-Help—explaining the whole process of what are your rights and how you go to court and so on and so forth. I think that should be done on a much larger scale and it shouldn't be up to the initiative of the individual clinic, given our limited resources.

**Mr Owens:** Absolutely.

**Ms Go:** We just cannot guarantee that everyone in the province will be aware of that. But I think that given and if Bill 120 is to be passed, it is a great opportunity to educate the public around that issue, especially at this point when the bill is new and the people are kind of woken up to the fact that some of them may be living in illegal apartments.

**Mr Owens:** That's right, substandard.

**Ms Go:** Yes. So you have to through the media, through print media and TV—there are a lot of different newspapers in different languages—and also you may have to spend some money to produce booklets or brochures explaining Bill 120 in all the major languages spoken by the people in Ontario. I think that is a must and that will tie in with the enforcement issues.

**Mr Owens:** Absolutely. I appreciate your comments.

**Mr Gary Wilson:** Thank you very much for your presentation, Ms Go. There are of course a number of issues that were raised here, and my colleague Steve Owens mentioned the parking, for instance, as being inaccurate as far as the issues that were raised. It's not only accessory apartments that create added parking. In fact, as you pointed out, they actually have fewer cars per person than do detached homes.

I want to just raise this issue of the way they are generated. For instance, Mr Johnson raised this question that came out of Ottawa of damp basements. Eastern Ontario has lots of damp basements and home owners are concerned about them too and try to find a home that doesn't have one. But if you do have a damp basement, you adjust your living accordingly. That's part of the reason they're called accessory apartments. It doesn't have to be in the basement if you want to create a second unit. The first floor, second floor, attic are all appropriate places for another apartment.

1620

I do want to talk, though, about the widespread support for this. We have surveys that show that the average is between 60 and 75 across the province, yet there's a lot of difficulty in getting municipal councils to move on the issue. I was wondering if you might comment on where you see the problem lying, in that there's strong community support yet councils are reluctant to legalize accessory apartments.

**Ms Go:** I think the answer to that question really goes beyond the issue of housing. Then we have to start talking about the electoral process and who is voting. In Scarborough, for example, and in Agincourt, a 40% Chinese community there, but less than 5% vote at the municipal level. The municipalities may not be representative, in the population sense, of the people living in that



area. Also people carry with them certain prejudices, their agenda, and that may be reflected in the policymaking process as well. I don't know how to answer the question but to point out that there are many people who don't vote.

**Mr Gary Wilson:** Thank you very much. Mr Mills has a question, Mr Chair.

**Mr Mills:** Do I get time?

**The Chair:** I'm sure he could fit it in tomorrow. Mr Daigeler.

**Mr Mills:** The witness may not be here.

**Mr Daigeler:** I think there may be some time after I'm finished. If there is, perhaps Mr Mills can ask it.

You mentioned that some tenants are being denied basic utilities. I'd just like to hear from you how often, from your experience, this happens and, if so, what exactly you do. How can you assist these tenants?

**Ms Go:** I work for a legal clinic and we do landlord and tenant cases, so we tend to see quite a few. I don't know whether it's reflective of the general situation out there, but certainly there are cases from time to time, and it's quite frequent that landlords withhold utilities because the tenant was late in paying rent or landlords are trying to get rid of the tenants, and it happens in legal apartment situations. In that case, we have to take the landlords to court. It will be a waste of taxpayer money that we have to do that every time.

We should try to prevent that from happening by better enforcement or better education, telling the landlords that they shouldn't be doing this because they will face certain consequences, rather than deal with it as it happens.

**Mr Daigeler:** You've just indicated yourself in your response now that it doesn't seem to be just one side. You said that some landlords may be doing it because the tenant isn't paying rent.

**Ms Go:** There are processes under the Landlord and Tenant Act that you can evict or deal with your tenants when they don't pay rent, but holding back your utility services is not one of them.

**Mr Daigeler:** What is the process there then for the landlord? I'm trying to put myself in the situation of the landlord. Do you also represent landlords? I'm sure there must be some.

**Ms Go:** No, legal clinics do not represent them.

**Mr Mills:** The poor.

**Ms Go:** Wasn't that an issue in Ottawa?

**Mr Daigeler:** I think these days there are some landlords—the people who are putting in basement apartments, many of them, are saying they can't afford it because otherwise they can't meet the mortgage payments.

**Ms Go:** That was an issue raised in Ottawa, I think, a couple of years ago. But in the end it was resolved that given the special situations—first of all, the limited resources the government is spending in legal clinics; also the needs of the tenants far outweigh the needs of the landlords, and also given that the mandate of the clinic is to serve low-income people who otherwise would not be

able to get legal services.

**Mr Daigeler:** I appreciate and I'm sure there are cases where landlords are acting in a fashion that's not acceptable, but I think from your own witness it's quite clear that there are two sides to this story. That has to be pointed out as well, that not all tenants are acting in a way that is proper either. I think that's a point that needs to be made too.

**Ms Go:** I agree.

**Mr Daigeler:** From your experience again, you're saying this is one approach to deal with the housing crisis, especially for the lower-income people. Are you aware of any kind of private rental construction that's under way at the present time? I'm asking that question as a more global strategy. In order to really solve this problem, wouldn't it be best to have more housing and low-income housing provided, including by the private sector?

**Ms Go:** Sure. I think that in the long run, and if the government is committed, providing affordable housing is really the solution to solving the housing crisis or housing problems in this province. But I don't see any commitment from this or any previous governments that they will ensure everyone in Ontario be given adequate housing. That is not happening, and I don't see that happening in the next 10 or 20 years. So what do we do in the meanwhile, between now and 20 or 30 years later?

We have to ensure that at least those who are living in the housing situation right now and those who are willing to provide housing through building an apartment within houses or whatever arrangement be governed by the law. That's what Bill 120 is doing, strictly to make sure that everyone is doing it right. Until such time, that's the only way we can do it.

**The Chair:** I think we can accommodate Mr Mills.

**Mr Mills:** I'm just going to say thank you for coming here, and I appreciate listening to your dialogue, what you said here.

If I hear another word about parking and parking problems—I've had it up to here about all the rhetoric. I want to share with you and I want to ask you what you think about this idea. I've been looking for an apartment myself this last couple of weeks. I get out the paper like you do, phone the people and say, "La, la, la, la." I say, "Is there parking?" They say, "No, there's no parking here." End of discussion. I've got a car.

Do you not see that the people who develop basement apartments, who have got basement apartments, instead of this horrendous red herring about parking when I called you, you'd say, "I'm sorry, there's no parking"? Doesn't that seem to be so simplistic?

**Ms Go:** Mm-hmm.

**Mr Mills:** So you don't want to hear about this any more either. Thank you. Neither do I.

**The Chair:** Thank you, Mr Mills.

**Ms Go:** I can't say that I don't want to hear it, though. I think parking is an issue, but I think it's an issue broader than housing. It is an environmental issue as well. As we all know, we have a lot of cars. But I



don't think that is what this committee is dealing with. Maybe another committee should be dealing with it.

**The Chair:** Thank you for coming today. We appreciated your presentation.

I'm glad Mr Mills had an opportunity.

1630

#### SCARBOROUGH COMMUNITY RESIDENTS

**The Chair:** The next presentation is from Scarborough Community Residents. Good afternoon. The committee has allocated one half-hour for your presentation. You should begin your presentation by introducing yourself and your colleagues for the purposes of our Hansard recording, and then you may begin.

**Ms Lorraine Katryan:** Thank you. I am primarily here to introduce the other members, who will be speaking with you at length. My name is Lorraine Katryan. The other speakers have requested that their surnames not be used and be stricken from any records because they are currently living in "illegal situations." On my immediate right is Cecilia, a tenant in an illegal apartment. Next to her is Toni, also a tenant in an illegal apartment, and on the end is Renu, who is a home owner with an illegal apartment.

**Cecilia:** My name is Cecilia and in 18 days I will be 67 years old. I live in a basement apartment. I'm here today as a senior citizen to discuss what we in general require.

Senior citizens have very special needs that must be met. First and foremost is security. Senior citizens on a fixed income must be able to find affordable housing. As many of you know, finding an apartment is difficult at best for a 30-year-old couple let alone a senior citizen. Basement apartments run by home owners are usually affordable. Basement apartments run legally by responsible home owners may be our only hope for affordable, safe and comfortable housing.

With respect to maintenance, such as snow removal, lawn care, this is taken care of by the home owner. In most cases seniors are very well taken care of by the home owners, and respected.

In my particular case, and I speak only for myself, I am an epileptic. I have a few other problems. The home owner, without her I would probably have to be in some sort of senior citizens' home where they would have to look after me. This way I am able to look after myself—well, 99.75% of the time. I really like where I am and I support the bill.

Last but not least, seniors only want to live comfortably and with dignity, and I do believe that this is one reason why basement apartments should be legalized.

**Toni:** My name is Toni. I'm a single mom with two young children. I've lived in a basement apartment for about a year. I chose to live in a basement apartment because it is affordable and they did not demand the first and last payment. It is safe and secure for me and my children. My friends have suggested it. They also live in a basement apartment with their children and they've said it was good and it is a supportive environment.

My landlady and I have a good relationship. We're

both Polynesian. It has been a nice neighbourhood for me and my children. It has been close to the playground, close to the school, stores. I've always been afraid of my children falling off a balcony from a high-rise. They allow us to use the backyard in the summer so my children can be playing there, and me and my landlady also share babysitting.

The reason I don't like where I'm living is because I don't have enough heat. I have to share a space heater with my daughters, and it's not finished properly. It's cold, damp, has a lot of spiders and huge bugs in the summer. The landlord would come into my unit whenever he felt like it. When the relationship had gone sour, I had no legal recourse. I found out I was living in an illegal apartment. Living somewhere illegally makes me feel insecure. There are no smoke detectors, no fire extinguishers. I don't feel safe any more.

That's the reason why I want basement apartments legalized, so I will know my rights. I can sign a lease. I will be protected under the law. I won't be in an illegal situation. I want more safety. The landlords would have to fix up their apartments properly so they were warm and dry and comfortable. If legal, there would be a clearer relationship with my landlord and myself. My mother, who has a basement and who wanted to rent out her basement, couldn't because she found out it was illegal, but now, if it does get legalized, she'll be able to do so. That's all I have to say.

**Renu:** I'm Renu. I'm a landlord in the sense that as soon as I came into Canada as a landed immigrant, the money I brought in, I thought of buying a house. Without knowing that these are called illegal apartments, I bought a house which had in fact more than one illegal unit. I have two illegal units as it is divided right now. It was very convenient for me from the beginning to have those two apartments, because otherwise I wouldn't have been able to pay the mortgage, do my studies and make a living, whatever it is. I should have declared bankruptcy long ago if those illegal apartments were not rented out.

According to my knowledge, I'm keeping those units in a very safe way and it is a very good unit. Both units are very good. It has never been left without a tenant. All my tenants are very happy. Right now, I'm having one white tenant and one black tenant and I'm brown. All of us are living very happily in that unit, because everything is separate. We are able to cook separately, ethnically, culturally. We won't be able to manage if there are no separate cooking units.

I would like to recommend that the one-apartment clause must be taken out and it should be three. I have seen my neighbours having more than one family or one tenant with them and all of them are living very happily. I see no reason why there should be just a one-apartment clause in that.

I also feel, being an immigrant, this would help the immigrant families to have the sponsorship breakdown cut off. Now these new laws are coming in to prevent people going on welfare because of the sponsorship breakdown. I'm an immigrant. I have sponsored my family. When they come in, if I can rent out the basement apartment, plus having that family in the other



apartment, having another apartment on their own would be very, very convenient for me to manage with the income.

I will be having additional income from the basement. As well, I will be able to support my sister and her family or my mother and that family, provided I have some additional income. Otherwise, I have to declare sponsorship breakdown and push them on to welfare, because the income level is going down, the salary cuts are there. So I strongly recommend more than one apartment.

I also don't want this clause of people entering my house. The right of the municipality to enter my house I think I should oppose, because any time anybody can, just like that, report against me for no reason and they will enter, so my privacy will be denied. I would like some sort of arrangement so that when I register my apartment, it should be inspected and there must be some period for them to come and inspect, unlike what is suggested.

I also feel that this bill would provide more representation of some rights to my tenants. For example, voting rights are now denied. They are not even registered as voters for the municipal elections. I get the right, but not my tenants. So the municipalities and board of trustees for the board of education are not elected democratically. Though it is called a democratic country, all the MPPs are elected and MPs are elected in a better manner, but not the municipalities.

I strongly feel that my tenants' rights are denied in that way. Actually, they are here in Canada longer than myself, but still I vote and they don't vote. So I strongly recommend that the bill should be passed and it should have more than one apartment.

1640

**Mr Mills:** Thank you very much for coming. I think it has been an enlightening presentation.

When the real estate board came and made its presentation, I suggested to them that apartments in houses was an added bonus when the real estate agent sold the house, because my daughter-in-law has one. This guy came aboard me and said, "Don't you ever suggest that, it's illegal," and he went on in his self-righteous way. Now you're telling me that a real estate agent sold you a house not with one illegal apartment but with two. These self-righteous people who appear before this committee, I hope they could know that, because they shot me down. Anyway, thank you for that comment.

**Cecilia:** I'm very pleased to listen to your presentation, because on this committee we've always assumed that seniors are the ones who own the houses and want to create the apartments.

**Cecilia:** Oh, no. There are a lot of seniors, Mr Mills, who don't have them.

**Mr Mills:** I was very glad to hear that we have some seniors' concerns here. I also appreciate the fact—it's why I'm supporting this bill obviously, and why you're supporting it—that the government's committed to keeping seniors out of public health care. You're contributing to keeping the deficit down. Really.

**Cecilia:** Thank you.

**Mr Mills:** This is what it's all about. So thank you for bringing that point. I just want to thank all of you and the young lady there, Renu, for coming here. Like you, I came to Canada as an immigrant and I lived in three basement apartments. I know what it's like. I know all the angles. It gives one that stepping stone to catch up and to get ahead in society. I thank you for that presentation.

Thank you, Mr Chair. My colleague has got some more pertinent questions to ask.

**Mr Gary Wilson:** Thanks a lot, Gord, for that vote of confidence. I'm just going to disagree with you slightly. The point is not to keep the deficit down, which is important, but it's really to provide the housing.

**Mr Mills:** No, health care.

**Mr Gary Wilson:** Sorry. I was going to say, because this is a housing bill, it provides the housing that people need.

*Interjections.*

**The Chair:** Order. Can we have order.

**Mr Gary Wilson:** Thanks a lot, Mr Chair, for rescuing me here. I want to say, what we're trying to do is provide the housing that people need. You've so clearly shown in each of your cases how accessory apartments do that, and to legalize them will do it that much better. You've all I think shown how there's a certain amount of deceit involved in this, in that you've got to live your lives differently because they are illegal at this point.

Could you just touch on that bit of anxiety that's caused in your lives and maybe elaborate, if there's anything that you would like to add to what you've already said about the fact that they are illegal and that you could live that much better if they were legalized?

**Cecilia:** Say the people are not home upstairs who own the house, and if I see anyone who raps at the door and I don't know who they are, I just don't answer. Then you don't get into any trouble. That's the easiest way out for me.

**Mr Gary Wilson:** Pretend you're not there, in other words.

**Cecilia:** That's right. You can always get the gas man to put the numbers in for your gas or your water, whatever it may be, because you don't know who's at your door anyway. I have my own entrance, but sometimes they come to my entrance, so you just don't do it.

**Mr Gary Wilson:** Toni, I was wondering whether you feel different from the other people in your neighbourhood where you are living, that you have to be different because you are in an illegal apartment.

**Toni:** I didn't know that it was an illegal apartment. Everything was okay. Everything was really good. I felt safe there, because they have the Neighbourhood Watch, so if ever my children were around and something was wrong, they could always run to that house.

But right now, my relationship with my landlord has gone sour. I'm being harassed by my landlord and I don't know where to go. I'm not sure what my rights are, since

it is an illegal basement apartment. That's why I want it to be legalized, so that I can have support from the law to fight with him or take him to court.

**Mr Gary Wilson:** Yes, when you're trying to make your residence better, safer and healthier and you don't get any cooperation from the person who has the capability of doing that.

**Toni:** Exactly.

**Mr Owens:** I'd like to thank the group for its presentation today. I think if I was going to take a snapshot of the deputants, I would say that this is the face that represents Scarborough. The deputants have made a good point with respect to legalizing the reality and asking Scarborough council to do a reality check and also to ensure that tenants have rights and a safe standard of housing that, in some cases, just isn't there and there's no ability for tenants to complain.

**The Chair:** I guess the question is, don't you agree?

**Mr Daigeler:** I wonder if any of you might know what the price differential would be between a legal basement apartment and an illegal basement apartment. Would you know that?

**Cecilia:** I'm in a basement apartment and to go into a legal, for the same space that I have now, which is one bedroom—that's all I need—there's a difference of \$300 a month.

**Mr Daigeler:** It's \$300 a month?

**Cecilia:** A month, and I'm on a fixed income.

**Mr Daigeler:** Would you say that would be the average situation?

**Cecilia:** I would say \$200 to \$300 per month is average.

**Mr Daigeler:** What I'm concerned about is that once your apartment is going to become legal, then your landlord will raise the rent to that level.

**Cecilia:** No, she won't.

**Mr Daigeler:** What assurance do you have of that?

**Cecilia:** My basis for it is that if you have a good tenant, you don't raise the rent. In order to keep your tenant, you keep the rent low. As long as they're happy with it, and you're happy, so what?

**Mr Daigeler:** I hope so.

**Cecilia:** Yes, I'm sure of that.

**Mr Daigeler:** Once it's legal and the rent is registered, then it's clear, but in your case all you're going by is the goodwill, I guess, of your landlord that he or she is not going to raise it to that.

**Cecilia:** No, I'm not going by the goodwill. I told her where I was coming today. I said: "What are you going to do to me if they put this bill through? Are you going to ante up my rent?" She said, "No, absolutely not," and she was the one who said: "If you have a good tenant, you don't increase their rent. When you have a good tenant, you keep it as is." That's how I know and I'm so sure of it.

**Renu:** I can answer that question better. I'm a landlord who is renting out two apartments, as I've admitted. I have not raised the rent so far. For five years

the rent had been the same, whether the tenants were moving out or in. The reason is that if I go on increasing the rent, they are going to look for apartments. My apartment is very attractive right now for them because they can afford it. I know that fact.

I need them and they also need me. That is the arrangement. I have just one child. I can leave the house peacefully if they are there. So I want them. As long as I know my tenants are good, I don't want to just push them out. Only if I don't like my tenants, I want to increase the rent so that they move. Otherwise, I will not do it. I would like to keep them.

**Ms Kattryan:** I think it's also important to remember that when tenants in these apartments are in a legal situation, then they will be fully covered by the Landlord and Tenant Act and the Rent Control Act, so they would have legal recourse if the landlord did try and jack up the rent.

**Mr Daigeler:** I understand that. I think that's quite clear. But if there's such a tremendous price differential—and frankly, we haven't asked that before, you know, what is the price differential?

One other point, and I think you brought it up yourself, that even if Bill 120 passes, you may be allowed to have one apartment, but your second apartment will still not be legal. Actually, you are the first one in that regard. You are asking to take away that provision which allows only one unit. Would you have any kind of limit?

1650

**Renu:** I would say there shouldn't be any limit as long as the fire safety standards are met. Why should there be a limit? You are the landlord and you own the house. You decide how many people. We don't want overcrowded places. We don't want to keep so many people as well. But we want to be reasonable and we want to have everything comfortable. That's all.

Schedules are different. We are almost extended families. There are two families, though they are extended. So naturally, even mother and daughter living together have different diets, they have different timings, they run at one time, and why should other person wash their dishes for the other person if the kitchen unit is the same. I don't know why they should have just one kitchen unit.

**Mr Tilson:** I have a question which I would like to put to the staff of the Ministry of Housing while this delegation is forward, and that has to do with an issue that was just raised by Mr Daigeler. It doesn't have to be necessarily answered now, but in due course.

If you have an illegal unit, an illegal basement apartment or any other type of apartment, and this bill is passed, and these units are now legalized, subject to standards and fire etc—I know the answer the delegation has given, but I would like to hear a legal opinion—these are not legal units now, so therefore can an owner of a building put these new rents on these new units at whatever he or she pleases, notwithstanding the niceness of a particular landlord? All landlords may not be nice nor all tenants nice.

It's a question that I would have concern with, particu-



larly if 100,000—and I have no idea where this figure came from—illegal apartments around this province are now going to be legalized. Can the rent of those 100,000 units be at any rent that the landlord chooses? If they can give a quick answer, yes or no, or if they wish time, that's fine too.

**Mr Terry Irwin:** Just for Hansard, it's Terry Irwin. I'm a senior policy adviser with the Ministry of Housing.

As far as the Rent Control Act goes, the position has always been that the illegality, as far as zoning goes, is not an issue. If there's a landlord-tenant relationship, if there's a tenancy agreement, that's all that matters as far as the Rent Control Act goes. We would then look to when that unit was first rented, and maximum rent would have clicked in from that date on. The passing of Bill 120 should have no effect on the legal maximum rent under the Rent Control Act for those units.

**Mr Tilson:** I look forward to hearing that one in the courts, but thank you very much.

A question to all of you—and I appreciate your anonymity; I understand why you're doing that—if this bill does pass and become law, it will become quite clear that notwithstanding the bill passing, there will then be a problem of all the violations of the fire code and municipal standards, building code standards and other standards that have yet to be complied with.

As tenants and as an owner, would you be prepared to come forward, particularly Cecilia who described conditions in her apartment, knowing full well that there are rather serious violations to those apartments?

**Cecilia:** What do you mean by a serious violation?

**Mr Tilson:** I guess if you know that there are violations, for example, the fire code. Certain fire exits and entrances may not be in a particular unit. The walls of the basement may not meet the building code or the fire code requirements. The plumbing requirements may or may not be adequate, particularly in older buildings, to meet the fire code requirements. There may be inadequate washroom facilities or there may be inadequate kitchen facilities. It may take substantial capital expenditures.

I'm speaking generally, because it may not apply to your specific cases. But you obviously have thought about this or you wouldn't be here today. Would tenants come forward to that next hurdle in trying to rectify these defects?

**Cecilia:** I think they would. I can only speak for myself. I have my entrance, but I also have windows that I could go through with no problem at all, because I'm small enough that I can squeeze through the windows. Regardless of where the fire was, I'm sure I'd get out.

**Mr Tilson:** The problem that has come forward, to me at least, particularly from landlords that have these units, is that they may be obliged by yet another law, the fire code or building code, to upgrade these units. In the past they haven't had that pressure, because no one's going to tell. Now that issue could arise. I guess the fear is that because of the substantial capital expenditures that may be required, people won't complain, because they want to live there.

**Cecilia:** I have most of the things, so I can't answer you.

**Mr Tilson:** Okay, perhaps some of the others might have comments.

**Renu:** I think I should add that you are talking about the expenditure of the landlord, not the tenant.

**Mr Tilson:** I'm talking of the expenditure of the landlord.

**Renu:** The tenant can always complain.

**Mr Tilson:** That's right.

**Renu:** The tenant will complain. Of course, if I don't meet the fire standards, definitely my tenant is going to complain. I don't think that tenants are not aware of all these things. They are aware of these things.

**Mr Tilson:** And if you require \$20,000 to rectify your two units?

**Renu:** That's my problem. If I want tenants, I should meet the standards. That's it.

**Toni:** I would complain. I want to complain right now. But where do I go? Who do I call for the inspection?

**Mr Tilson:** We'll now have various pieces of legislation that you'll be able to complain through. You'll be able to complain to your municipality. You'll be able to complain to the fire marshal. There will be all kinds of people you can complain to, depending on what the violations may be and depending on what the inspections may be.

I guess the issue that I'm trying to raise is that substantial expenditures may have to be made. I'm looking particularly at Cecilia—I hope I'm pronouncing your name correctly—where you've mentioned—

*Interjection.*

**Mr Tilson:** Oh, the wrong person. The lady in red, Toni. I'm sorry. The expenditures may have to be substantial. The landlord may not be able to afford those expenditures and may simply say: "Sorry, I can't afford those things. I'm going to have to close down this unit." Is that fear out there?

**Renu:** I can answer that part as well. Even with the mortgage right now, I don't have any additional subsidy or allowance, because my apartment, though it is meeting everything, is called illegal. As soon as that is legal, I can get more mortgage and add it on to the current mortgage and get better interest rates. I don't think the expenditure is going to be as high as you are predicting.

**Mr Tilson:** Oh, I'm not predicting it. I'm just—

**The Chair:** Thank you, Mr Tilson.

**Mr Tilson:** I'm not predicting anything yet.

**The Chair:** Thank you for coming and making your presentation to us today. It's been most helpful. This concludes the hearings for today. Tomorrow we will reconvene at 10 o'clock to do the final day of public presentations with regard to Bill 120. I'll see everyone at 10 am.

The committee adjourned at 1659.

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## STANDING COMMITTEE ON GENERAL GOVERNMENT

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    White, Drummond (Durham Centre ND)

*\*In attendance / présents*

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    Miclash, Frank (Kenora L) for Mr Sorbara

    Mills, Gordon (Durham East/-Est ND) for Mr Morrow

    Owens, Stephen (Scarborough Centre ND) for Mr Wessenger

    Tilson, David (Dufferin-Peel PC) for Mr Arnott

    Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr White

### **Also taking part / Autres participants et participantes:**

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    Marland, Margaret (Mississauga South/-Sud PC)

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Luski, Lorraine, research officer, Legislative Research Service



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## Official Report of Debates (Hansard)

Thursday 10 February 1994

## Journal des débats (Hansard)

Jeudi 10 février 1994

### Standing committee on general government

Residents' Rights Act, 1993

### Comité permanent des affaires gouvernementales

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation



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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 10 February 1994

The committee met at 1007 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

## CITY OF SCARBOROUGH

**The Chair (Mr Michael A. Brown):** The business of the committee this morning is to listen to public deputations in regard to Bill 120. Our first presentation is from the city of Scarborough, Mayor Joyce Trimmer.

**Mrs Joyce Trimmer:** Good morning, Mr Chairman and members of the committee, and especially to those members of the committee whom I know from past meetings in Scarborough.

**Mr Stephen Owens (Scarborough Centre):** Scarborough, the finest city in this metropolitan area.

**Mrs Trimmer:** Oh, it's commercial time.

**Mr Owens:** Wouldn't you agree with that statement, your worship?

**Mrs Trimmer:** I certainly would. This is time for our commercials. Great stuff.

**The Chair:** Now that the commercials are done, I will tell you that you've been allocated one half-hour by the committee for your presentation. You may use that as you wish. For the purposes of our electronic Hansard, you should reintroduce yourself, and then you may begin.

**Mrs Trimmer:** I will not need to take half an hour, but I will be available for questions.

My name is Joyce Trimmer. I'm the mayor of the city of Scarborough. I am very pleased to have this opportunity to express the opinions, concerns and issues related to this topic from the council of the city of Scarborough. If you want to get into more technical details to which I may not know the answers, then I have along with me one of our staff members, principal planner Peter Moore. Our fire chief may or may not show up—the traffic is bad today—but I do know that he has already made a presentation before this committee.

I have been asked by my council to present Scarborough's position regarding Bill 120 and the proposal to permit apartments in houses. I trust the committee will find my comments of some value, given that they are based on extensive experience and a knowledge of this issue acquired over the last few years.

The city conducted its own study of second units or apartments in houses in 1990 and as part of that study held 14 community meetings attended by 750 residents and received 1,800 responses to an opinion survey. Many of my comments today are based on information obtained

from Scarborough residents through the consultation process. We learned in our opinion survey that about two thirds of our residents support apartments in houses, conditional upon appropriate controls. Conversely, two thirds oppose them without those controls.

About 10% to 15% of Scarborough's houses have apartments in them, mainly in basements. The city and its staff have considerable experience in dealing with problems they cause and with the inherent difficulties of enforcing bylaws and regulations that deal with these problems.

I also want to emphasize that Scarborough has never closed the door on apartments in houses. It actually decided to legalize them in one part of the city as a pilot project before the province brought out Bill 90. But the city has always wanted to make sure it had the ability to ensure a high quality of life in a safe environment for the occupants of the units and their neighbours. In 1991, council adopted two resolutions asking the province to make a total of 16 changes to provincial legislation, regulations and programs which the city thought were needed to achieve those ends. I've included copies of these two resolutions as part of the written version of my presentation today. Council also suggested some changes to Bill 90 when it reviewed it last year.

In general, these are the basic issues I want to address here today, along with what Scarborough council believes to be reasonable suggestions to deal with them.

**Safety and welfare of occupants:** We all want to ensure that apartments in houses are safe and that our officials have the ability to make sure they are safe. The proposed building code regulations deal with the technical requirements for a safe unit, and I know that building officials, fire chiefs and property standards officers have given you lots of advice on those standards. In that regard, I endorse the position presented to you by Scarborough Fire Chief Tom Powell on January 26.

It would also be remiss of me if I did not mount my old hobby horse of aluminum wiring, which led a provincial royal commission in the 1970s and which identified serious problems related to the ability of aluminum wire to withstand increased loads through a series of connections. You should be aware that there are whole subdivisions across the province—I happen to live in one—with aluminum wire, which, in my opinion, would be totally inappropriate for use as secondary units without major electrical upgrading.

To give you an example of that concern, if you have a heavy load at the end of a series of connections through outlets, you don't have to have anything plugged into a particular outlet to create a fire; you can have a resistance buildup in that wiring in an outlet that has never, ever been used. If it happens to be next to a piece of soft furnishing—a bed, which they frequently are, or a chesterfield—then there is a grave danger of there being

a short and it catching fire. There have been incidents of that. Just check that old study.

Another concern expressed by delegations to Scarborough council addressed the growing concern of radon gas accumulation in basements. Recent studies in Norway have shown that radon gas is linked to a greater incidence of lung cancer. In light of this information, the province should reassess the building code's current standards for radon—which it has, but I understand that it doesn't specifically deal with basements—specifically as it applies to basements in older units.

Scarborough council has also requested the province to provide zoning bylaw inspectors, property standards inspectors and building code inspectors with reasonable and effective rights of access to dwellings for purposes of inspection for compliance with the Ontario Building Code and municipal bylaws without undue delay or expense. The proposed legislation tries to make it easier to get a search warrant, but I don't think it goes far enough, because an officer requesting a warrant to enter a dwelling still has to convince a justice of the peace or a judge that there are reasonable grounds to believe there is a problem with the dwelling. Usually, that means the officer has to enter the dwelling to obtain such evidence, but he needs a warrant before he can get in. It can take many visits to a justice of the peace over a long period of time to get a search warrant. Recently, East York officials had to appear before a justice of the peace four times before they obtained a warrant.

We need to be able to get into units to make sure they are safe. That is why, when it reviewed Bill 90, Scarborough council asked the province to adopt regulations or guidelines setting out the kinds of evidence which may be used to satisfy a judge or justice of the peace with respect to the issuance of a search warrant under the municipal bylaws; for example, assessment roll data, telephone connections, cable TV connections, doorbells, letterboxes, real estate listings, car ownerships, voting lists and sworn affidavits from neighbours. Another approach may be to provide training or briefing sessions for judges or JPs so they are more familiar with the difficulties of enforcing bylaws that apply to private homes.

Even if officers can get in and identify problems, there's still a major concern in enforcing the standards or upgrading a unit. Landlords may decide to close a unit down instead of upgrading it, meaning that people may lose their home. A couple of well-reported examples of this could deter other tenants from complaining to the municipality if there are problems with their unit. I would remind the committee that one of the reasons the government wants to legalize these units is to enable occupants to complain about unsafe or substandard units without the threat that the unit may be closed down.

Scarborough council made some suggestions that would respond to the above concerns. It asked the province to amend the Landlord and Tenant Act and the City of Scarborough Act to provide that a landlord's refusal to comply with the building code, the fire code and municipal bylaws may result in the relocation of the tenant and/or the municipality undertaking needed repairs and maintenance with all costs being recovered as taxes.

The city of Toronto now has that ability to recover the cost of repairs and maintenance as taxes and we think it should be extended to the other municipalities in Ontario. The Rental Housing Protection Act requires that landlords pay for alternative accommodation for tenants if repairs or conversions require that a unit be vacated. That principle could easily be applied in the case of repairs needed to bring a unit up to standard.

Scarborough council also asked the province to amend the Municipal Act to permit municipalities to license apartments in houses. Again, the main reason for this was to have another mechanism to make sure they were safe. The government has said no to licensing. Perhaps I could suggest instead that the government provide assistance to set up a registry of units, as will be permitted for care units. This would also enable municipalities to help people find vacant units, if the landlord has decided to close a unit down rather than bring it up to standard.

Good neighbours: Scarborough council requested the province amend the Landlord and Tenant Act to provide the ability for a home owner to evict expeditiously an incompatible tenant from a second unit. That specific request, which was picked up by a number of municipalities, not the least North York, originated in Scarborough and it was an amendment that was made, quite frankly, by myself. Most tenants are good tenants, but a few tenants can make life miserable for the landlords. If they're living in the same house, it becomes absolutely unbearable.

I believe the act could be changed to help landlords in these cases without giving the landlord the ability to exploit or abuse the tenant. It would also mean you would get more units, because more home owners would rent out a unit in their house if they knew they could deal with "the tenant from hell" more easily than they can now.

I should tell you that I've had specific requests from senior citizens, particularly women on their own, who would like to do that, but they're terrified they'll get someone in whom they can't get out. A particularly outrageous example which received considerable media attention involved a woman in York, I believe it was, evicted from her own home while the tenant was allowed to remain. That woman, an elderly senior citizen who didn't understand the English language too well, was evicted from her own house and the tenant allowed to stay. The details of that are available and you can get those any time.

In Scarborough, we had a specific case—and again, you can have the details, if you want them—where tenants were systematically dismantling a house, including the removal of fixtures, fittings, interior piping and roofing, and the landlord wasn't able to stop them because of the time and process required to regain possession of his unit through the courts. His place was a mess. It was almost virtually destroyed before he could get back there, and guess who had to pay the freight on that? He did.

Effective enforcement: At our community meetings, people constantly told us of their frustration that we couldn't effectively enforce our bylaws against tenants



and owners who didn't respect community standards. They were bad neighbours. I should tell you that every time we put the blame on you folks, they didn't believe us, because they thought we had the right to do the things that we didn't have the right to do.

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Scarborough requests that the province enact the following measures that would help us enforce our bylaws more effectively:

—Create a municipal bylaw court to deal with all bylaw infractions and building code violations. We envisage a municipal division of the provincial court. It would be staffed by judges who developed experience in and understood the implications and nuances of municipal bylaw issues.

—Amend the Planning Act and the Municipal Act to provide that the cost of work carried out under municipal orders shall be recovered as taxes. This is already allowed under the Building Code Act, so we think it's reasonable that the same powers be extended to matters covered by the Planning Act.

—Amend the court procedures to permit a prohibition order to be enforced by the same court granting such orders. There are problems when you go back to permit a prohibition order. You go back to a different authority and you've got to go through the whole process again. At least if you went back to the same one, they'd know what it was all about.

Fair taxation: At our community meetings, residents told us they wanted apartments in houses to pay their fair share of taxes for the services they were receiving from the city. That's why Scarborough requested that the province ensure that accessory units are assessed appropriately to reflect the increased market value of the converted property; in other words, to assess them for property taxes as duplexes in comparison with other duplexes under the Assessment Act.

Right now, the assessment rolls identify about 4,000 converted houses in Scarborough. We know there are over 10,000 apartments in houses in the city. So that's another 6,000 or so not paying their fair taxes. Again, I might remind you that the fair tax issue is a very, very sensitive one in Scarborough, where they are already acknowledged as being overassessed and overtaxed.

Facilitating units: Council also recognized that the province could assist us to make units safe and bring new units on to the market by reintroducing programs that would provide funding assistance to owners of units and to municipalities so they could expedite the processing of building permits. Again, I personally have been asked by senior citizens if funding assistance would be available, and they would be happy to use that.

Apartments in town housing: Bill 120 will allow apartments in all row houses, including row houses in cluster projects or condominium developments where a private driveway serves many units. Additional units in these projects will need a parking space, but there may not be room on the site for more parking spaces without taking over open space or recreational space. These areas are essential for children. They are especially important

for day care centres that may want to set up in a town house project.

I think the province's aims for this legislation would be achieved if it didn't extend as-of-right permission to cover apartments in row houses in developments in which three or more row houses share common parking, outdoor amenities, driveways or private roads. Scarborough has about 13,000 such units, most of them on carefully planned sites with a specific limit on the number of units on the site. It has over 95,000 single detached, semi-detached and street town house units, which would still easily meet the need for apartments in houses in Scarborough. Those are a special type of housing where we're saying we don't think it's appropriate, because we don't want those areas to lose the space for children to play.

The zoning bylaw amendments process: Most municipalities will want to bring their bylaws into line with the changes brought about by Bill 120, so that their bylaws are current, clear and user-friendly for the public. Such changes will be little more than technical amendments to the bylaws, but none the less, the Planning Act requires that we hold fair hearings which will be expensive and which will give members of the public the impression that they can have an influence on whether or not apartments in houses are permitted. As you know and we know, that clearly would not be the case. They're being told this is what's going to happen; they're not being asked what their opinion is.

Scarborough council has asked the province, and so has Metro council by the way, to clearly identify to all municipalities the process required for amending the official plans and bylaws to conform to Bill 120. That really means a process that doesn't involve having to go through the farce of a fair hearing when we know that it won't be a fair hearing at all.

Regulations: Much of the real impact of Bill 120 will be realized through the regulations which implement it. My council asked the government to process the draft regulations in conjunction with the bill. I would urge you to adopt regulations which will make units safe, particularly the proposed fire code regulations for two-unit residential occupancy.

Scarborough made most of its requests to the province in 1991. Some of those requests have been adopted or recognized in Bill 120 and we thank you for that. Specifically, they are:

—The Municipality of Metropolitan Toronto Act was amended to provide that fines payable upon conviction in court belong to the municipality that originated the prosecution.

—Bill 120 proposes to permit garden suites through temporary-use bylaws and to allow municipalities to enter into agreements with the owners of garden suites. I might draw your attention to our further request, that such agreements be enforceable against any and all subsequent owners of the land. This provision applies to agreements permitted by other sections of the Planning Act—for example, subdivisions and site plan control.

—The Building Code Act, 1993, has been adopted.

In conclusion, let me reiterate my key concerns: the

safety and welfare of the occupants of apartments in houses; the ability to effectively enforce bylaws; fair taxation; problems with apartments in row houses; the ability to deal expeditiously with bad tenants, and a reasonable process for amending our zoning bylaws.

I will also make one final comment with regard to a major concern that I'm sure is felt by all of the municipalities, that is, that we are required under the Planning Act to plan our communities. Scarborough, of course, being the newest of the area municipalities to develop to the extent that it has within Metropolitan Toronto, has had to conform to those requirements, to plan our communities and plan them well under your direction. We have been given that right, we have been given that responsibility to plan our communities.

It is exceedingly difficult for everyone to comprehend a situation, particularly the general public, when the province, having given us that responsibility, imposes something totally new and different, which will have some major impacts, right over the top of that without public consideration, as in this case the secondary units, once a community has been planned for a specific purpose, population or the services provided. It has been done before by this province in other areas, but it certainly makes it exceedingly difficult for everyone, including the community, to deal with those kinds of impositions after the fact, after a community has been well planned in accordance with your rules. Thank you.

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**Mr Joseph Cordiano (Lawrence):** Thank you for your presentation today. I thought it was very helpful and pragmatic, and it will be very practical and of use to us.

I have specifically two questions. One is around the view emanating from your opinion survey that residents would be in favour, or at least two thirds of them were in favour, of accessory apartments with controls. Is it your view then that controls would be akin to the municipality being able to determine perhaps where accessory apartments are located, given a set of determinations that would be made by the municipality according to its various bylaws?

**Mrs Trimmer:** I think the results of that survey were aimed specifically at ensuring that they were safe and that in fact they did fit in with the community. The community was saying to us, "Yes, we agree, but there are conditions that need to be laid down and they need to be made very clear to all of us." In other words, they wanted to know precisely what the rules of the game were, as everybody does.

**Mr Cordiano:** I understand.

**Mrs Trimmer:** It's also very clear that there are some areas, and of course I indicated one, where it's inappropriate for a number of reasons, why secondary units should not be allowed in that particular area. The people who live in communities know that. That's their life. They live there and they're well aware of it. They also know what the problems are and they want them resolved. So they're not saying they're opposed to it, but they are saying they're opposed to it if those controls aren't in place.

**Mr Cordiano:** If accessory apartments were required to be registered with a municipality, would that go some measure in alleviating some of the concerns that you might have expressed in this report?

**Mrs Trimmer:** Yes, some registration. Whether it's by the municipality or whether it's by the province, it makes no difference.

**Mr Cordiano:** It would be at the municipal level.

**Mrs Trimmer:** It seems more appropriate perhaps that it be the municipality, but certainly if there was to be a registry, it would be very helpful in a number of ways.

**Mr David Johnson (Don Mills):** I thank you for a number of excellent points. In three minutes it's not going to be possible to touch on them all, but I think in particular you've expressed extremely well the fact that municipalities such as Scarborough have been given the responsibility to plan their communities with their citizens, and that's exactly what you've done. Now this power is being taken away from you and the other municipalities across the province of Ontario in a very important aspect of planning. I just hope the government is listening.

**Mrs Trimmer:** It's not so much taken away as that this level is imposing its own will over and above ours. They are impacting what we have done without their having to go to the community in the way we have and without conforming to their own rules under the Planning Act. So it's an imposition plopped right over the top.

**Mr David Johnson:** There was a suggestion that perhaps the provincial members of Parliament should conduct the fair hearings rather than the municipalities.

**Mrs Trimmer:** I think that would be wonderful.

**Mr David Johnson:** Would you endorse that?

**Mrs Trimmer:** I think that would be great.

**Mr David Johnson:** There was a suggestion from the minister herself that the official plans and the zoning bylaws needn't be changed. They wouldn't be in conformance but just leave them in non-conformance.

**Mrs Trimmer:** As long as the government makes it very clear that we may do that. We are required under those plans to make them conform, and to make them conform, we have to make them conform to Metro plan. And we are required to go through the fair hearing process, which I think in most instances is appropriate. But it becomes a total farce when the government says, "Okay, this is the way it's going to be, folks. Now you can come in and we'll listen to you," knowing full well that whatever they say won't make a bit of difference.

**Mr David Johnson:** I think you've taken the right approach, that the plan should be clear for the property owners.

**Mrs Trimmer:** That's right.

**Mr David Johnson:** You have to go through this farce, I guess, and it needs to be defined.

The final question I'll probably get in here is that it's an important point that you've made. You've done your own survey.

**Mrs Trimmer:** Yes.



**Mr David Johnson:** The government claims to have surveys that show that two thirds of the people are in favour, but it didn't get down into the details; it didn't get down into various conditions. Your survey shows that people only favour basement apartments or accessory apartments under certain conditions. Maybe you could tell me what you think those conditions are that people want, such as, I presume, a right of entry, such as the ability to evict the tenant from hell. Can you be specific as to what conditions people are expecting before they would support accessory apartments?

**Mrs Trimmer:** We'd be happy to send you copies of this. Let me see: controls are important; form of control; parking; appearance; no major change; spacing—they didn't want too many on one street; owner-occupancy—the home owner has to live in the house.

**Mr David Johnson:** I'm sure you'll send us a copy of that.

**Mrs Trimmer:** Yes. We can send you a number of copies of this.

**The Chair:** Just to be helpful, I'll ask the clerk. He will see that all members have it distributed to them.

**Mrs Trimmer:** Yes, certainly. Do you want them sent here, and they're distributed, or do you want them sent separately?

**The Chair:** If you just send them to the clerk, he can do that administrative work for you.

**Mrs Trimmer:** I'd be very pleased to do that.

**Mr Gordon Mills (Durham East):** Welcome, your worship. You and I had some public forum discussion on Bill 90 way back when, right?

**Mrs Trimmer:** I remember.

**Mr Mills:** I see that your plans and ideas haven't changed. To save time—we've been bombarded with all kinds of points of view at this committee and one of the gentleman who came here was a well known planner, David Hulchanski. He's a professor at the University of Toronto.

**Mrs Trimmer:** Sorry, I've never heard of him.

**Mr Mills:** He gave us a paper.

**Mrs Trimmer:** He's so well known I haven't heard of him.

**Mr Mills:** He's very well known—Housing for All.

**Mrs Margaret Marland (Mississauga South):** He's a real—

**Mr Mills:** He goes on to say—it's my time, Mr Chair.

**Mr George Mammoliti (Yorkview):** Mr Chair, do we have to put up with this?

**Mrs Marland:** Yes, you do.

**Mr Mills:** It's my time.

**The Chair:** It was going fairly well.

**Mrs Marland:** That's why he's at university.

**The Chair:** Order.

**Mr Mills:** He told us about apartments in houses and he said, "Although the practice increasingly recognizes a problem, exclusionary planning is now entrenched and sophisticated." That's what the professor said.

I'm wrestling with what I'm going to do. Then some of your citizens came and appeared before this committee from the Scarborough Access to Permanent Housing Committee. They come here and said something that really shot me back on my heels. They said that at a meeting, in front of your council, a member of your council told them that he didn't feel certain people of African origin would fit into his community and that if basement apartments were legalized, his community would be overrun by such persons.

So they're all caught in a dilemma. The professor says it's exclusionary, your own people say it is and you're telling me that you say you never closed the door on apartments in houses.

**Mrs Trimmer:** Wait a moment.

**Mr Mills:** Okay. I'm waiting.

**Mrs Trimmer:** Let me deal with this very specifically. I don't know who the councillor was who made that comment. I can say very specifically that this comment was not made at a council meeting.

**Mrs Marland:** It was at the fair hearing.

**Mrs Trimmer:** It was not said at a fair hearing in a public forum. Whether it was said privately to one of those individuals, I don't know, but certainly that comment was not made at a public fair hearing.

**Mr Mills:** Another deputant at a Scarborough council meeting said he didn't want coloured people living next to him in a basement apartment and these people said you didn't challenge that.

**Mrs Trimmer:** At a fair hearing, let me make—

**Mr Cordiano:** Mr Chair—

**Mr Mammoliti:** We want to hear the response to this.

**Mr Mills:** Come on.

**Mrs Trimmer:** Let me make it very clear. This government has established the fair hearing process. The fair hearing process is to hear from everyone, not to interrupt them, not to challenge their specific point of view; it is for a fair hearing. We may, and you may not, and these people may not, like what is being said any more than other people may not like what they say, but it's not my job to tell people what they should say. That is not a fair hearing. The whole idea of a fair hearing is to hear what opponents have to say.

This professor says the process is exclusionary. Let me tell you that the way it has been set up by your government allows us to make it exclusionary and it allows us to do it. So if you don't want us to do it, withdraw that. On the other hand, for generations, this government has set the rules that says, "This is the way it can be done," and when we go out to the general public and some of them say, "We like that. That's what we want," then we are obligated under your rules to listen to them. We are supposed to provide a planned community in accordance with the general agreement of the people who are coming in to tell us what they want. This is what we try to do under your rules. If you don't like it, change your rules.

**The Chair:** Thank you, Mayor Trimmer.

**Mr Mammoliti:** You made a racist comment. You have a responsibility.

*Interjections.*

**Mrs Trimmer:** I made a racist comment? Wait a moment.

**The Chair:** Order.

**Mrs Trimmer:** I want him to say what racist comment I made.

**Mr Mammoliti:** I heard Mr Mills say that somebody had said some racist comments at your hearings.

**The Chair:** Order. You are out of order, Mr Mammoliti.

**Mrs Trimmer:** Are you responsible for everything that's said? Are you responsible? Is the Premier responsible for every comment that's made by you lot? Of course he's not. You've made some pretty outrageous comments, and some of the members of your party at times, and the Premier's not responsible for them any more than I am. If we have a fair hearing set up under your rules, we have to allow those people to express their point of view whether you agree with it or not. I made—

*Interjections.*

**The Chair:** Order.

**Mrs Trimmer:** I am saying to you that no racist comments were made in that meeting unless it was made privately to this woman.

**The Chair:** Thank you for your presentation, Mayor Trimmer.

I would remind all members, interjections are always out of order. They are not helpful to the committee process, they are certainly unhelpful to the electronic Hansard and, further, there should be and shall be no comments from the public galleries during this process. This is an extension of the Legislative Assembly. All comments are inappropriate, all reaction from people at these hearings is inappropriate and people should be helpful to the Chair and allow him to keep the decorum that we all need to conduct this committee business in a reasonable fashion.

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## ASSOCIATION OF MUNICIPALITIES OF ONTARIO

**Mr Michael Power:** My name is Michael Power. I'm the mayor of the town of Geraldton in the great northwest of this province and I'm a vice-president of AMO. With me today I have Linda Dionne, a councillor from the region of Durham and a member of the board of directors of AMO, and Keith Ward, who's director of policy and development, non-profit housing, from the region of Peel and a member of the board of directors.

We don't intend, I don't think, to take the entire half-hour. We'd like to leave a bit of time for some interesting questions following the presentation. I'm going to just do a general overview and my colleagues are going to get into more of the specifics.

May I start by saying we agree that there is a problem, but we don't agree that this bill solves the problem. This is a uniquely important presentation from AMO; firstly, because it's the municipalities that are going to be charged with the implementation of much of this legislation, and it's the municipalities that are going to be on the firing line as a result of any of its failings, either

those we see ahead of time or those that come as the legislation comes into force; secondly, as you have found out, because AMO represents the collective voice of municipalities. We know this committee has heard from many municipalities in the course of its hearings and I think you'll find that the views we're putting forward today are similar to the views that have been put forward by all of the other presenters.

We do have copies of our report that the clerk has made available. We don't intend to go over every one of our recommendations, or to go over every aspect of the legislation, because there isn't time today and we believe, in any event, that the members of the committee are perfectly able and capable of reading the report themselves.

May we just briefly have a look at the apartments-in-houses issue. We agree that the government must address the health and safety issues which are related to illegal accessory apartments, but we suggest to you that this is a problem, and it's a problem that must be recognized whether or not an accessory apartment is illegal or legal. It doesn't really matter much if you say the apartment is legal or illegal; it can still be a health and safety problem. You may ask us, how can this be? We say this to you, that there are significant factors which prevent municipalities from being able to ensure health and safety standards are met in all accessory apartments.

Firstly, as you're well aware, municipalities have limited right-of-entry powers. They cannot just enter into an accessory apartment to do an inspection. They must obtain warrants of entry etc, and that doesn't happen in the flip of a pen.

There's the time and the cost and the barriers of enforcing municipal work orders. I'm sure all members of this committee have been made aware of that and you have seen it over the years in the media.

There's the time and problems of going to court to prosecute. There's the difficulty of collecting fines, even when they are imposed. There's the landlord's inability to comply because of lack of resources, and the landlord can quite justifiably, and often does, put that forward and obtain delays.

There are, and this is most important for us, limited municipal resources for ongoing inspections on a very regular basis. There are many municipalities in the 800-and-some across this province that don't have the kinds of staff that are found perhaps in the region of Peel or in the other large urban areas. Even in those areas they don't have, at this point in time perhaps, all of the needed staff in order to fulfil the requirements.

There is also no record or registry of apartments, be they legal or illegal, and if you don't know they're there it's very difficult to inspect them. You have the difficulty of dealing with absentee owners and ensuring that the property standards are maintained.

We suggest to you that this legislation that has been proposed doesn't address these issues and it will not lead to improved living conditions for tenants in legal or illegal accessory units. So you say to us: "What do we propose? How do we make it better?" We would suggest



the following to you, in a general overview.

The authority and powers to deal with regulatory issues related to accessory units should be granted to municipalities such as licensing, such as improved right-of-entry powers.

We need mechanisms to address the enforcement problems.

We need changes to the assessment of accessory units to better represent the additional costs of a residential unit. Creating an accessory apartment is not the same as just doing a rec room in your basement, and yet that often is how they are assessed.

We suggest to you that the authority to define local housing intensification policies is appropriate to our municipalities and should be left there; that's where the authority should belong.

The authority for zoning and a continuation of the trend towards greater provincial intrusion: What we see in general is a greater provincial intrusion on municipal responsibilities. Continually, you say, municipalities are not meeting their responsibilities. We say to you we are. We have come to you for some help in helping to meet these responsibilities in an even more responsive and responsible manner and we ask you for your help in that regard. I'll turn over to Linda.

**Ms Linda Dionne:** Thanks, Michael. I'd like to just give you a very brief background on what went into the preparation of the response by AMO, which I think you've all been circulated.

Since 1991, we've been involved in a very lengthy process, as have the members of this committee and this government, on the discussions of Bill 120, particularly those pertaining to apartments in houses. We've also received over the past two years broad support from our members for the positions we have taken on this issue. As Michael has told you, we're not going through all of those positions, but I think it's extremely important that they be examined by each of you at your own leisure and, of course, we would be more than willing to have further discussions on those particular recommendations.

It is important for me to highlight to you just how carefully thought out these recommendations were, because they certainly were not a knee-jerk reaction that has come from a sprinkling of reactionary municipalities. Probably, out of the 817 responses that we've had, over 700 are really impacted by this legislation and I think one must be cautious about how one reads surveys. I'm very concerned about the nature of a lot of surveys that have been done.

AMO appointed a housing task force in 1991 to deal with the land use planning for housing policy statement and a variety of other housing issues, and the task force has had regular liaison with Ministry of Housing staff, to the benefit of both groups.

The task force developed a position on Bill 90 over the course of several months based, in part, on ongoing dialogue with Ministry of Housing staff and the input of individual municipalities. That position was ultimately adopted by the board and became the main basis for our response to the accessory apartment provisions of Bill

120. The housing task force includes representation of large urban and midsize municipalities, upper- and lower-tier municipalities, university and college towns, and includes staff from legal, planning policy, housing policy, bylaw and other departments as well as a sprinkling of politicians—the fewer the better, we have found, on our task force. I'm a politician, so I hope you can appreciate that. The board itself, of course, represents all sizes and types of municipalities. The unanimous endorsement of this response should send a very strong signal to your committee.

I'd be happy to answer questions about our response and Keith, at this point in time, will highlight our AMO response to you.

**1050**

**Mr Keith Ward:** Thank you, Linda. Mr Chairman, we recognize your time limitations and we do want to leave time for questions. If you want to juggle your schedule, we'll be happy to cooperate, though. We've been at this for a couple of years and a few more hours isn't going to make any difference to us at this stage. I won't even attempt to skip through our formal response or even try to summarize it. The bill is too complex to try to gloss over that way. Rather, we'll just try to pick up some key themes here.

First, we do not believe the two different parts of this bill had sufficient commonality to warrant pulling them together in the one bill. We know you've heard that before, but you're not doing justice to either side of the bill.

Our most important recommendation is one of opposition to the blanket accessory apartment provisions of the Planning Act amendments. Naturally, as was mentioned, we resent the intrusion into what is properly municipal jurisdiction. We believe that this move is premature and that it's contrary to other provincial policy directions and that it is counterproductive to the broader goal of residential intensification which is being strongly supported by this government and was by the previous government.

Throughout the province, many initiatives which have been under development to support residential intensification have simply been put on hold in the face of this bill, which confronts municipalities with enormous uncertainties.

One of these uncertainties is the potential liability which we now face as municipalities. If everything is legal but we can't inspect or we can't effectively enforce standards, we suspect that we will be partially liable for injury or damage which might occur on properties. For sure we're going to be sued. We're a big target. No one in the provincial government has been able to provide any reassurance to us in this regard, and a number of our municipal solicitors are starting to raise the warning bells. These issues must be resolved before this legislation is enacted.

One of the reasons why inspections may not take place even if they're requested is that municipalities do not have the resources to deal with an increase in inspection workload, and this is hardly the environment where we can contemplate hiring new staff to take on this addi-

tional workload. Both sides of the bill, the accessory apartment side and the care home side, particularly through the Rental Housing Protection Act amendments, will impact on our administration.

The practicality of the RHPA amendments is dubious as well in other ways. The principle of equivalent treatment of tenants is certainly fine. We accept that principle, at least in broad brushstrokes. But supply considerations are different, and that's acknowledged in the bill itself. The kinds of information available and the conditions which might be used in an RHPA application, which is administered by a municipality, will be extremely difficult to define—they're certainly not defined in this bill—and they'll be impossible to administer, in our view.

I think we all agree that we do need more care facilities everywhere across the province. In no small measure that's because of provincial deinstitutionalization efforts without a commensurate increase in community-based care funding.

This bill will really mean, then, a prohibition on conversion or demolition of care facilities. It's going to be impossible to find any conditions which wouldn't result in the prohibition of conversions.

We need to encourage new operations, but anyone considering getting into the business now will look at the cost and the complexity of setting up shop, which are certainly more onerous than for conventional rental housing, and will look at the new controls over landlord-tenant relations and over their income, and they'll find that with the RHPA they can't even get gracefully out once they're in. So anyone logically would say, "Forget it," and that's what we're asking you to do about the RHPA in this bill: Forget it.

Finally, I want to mention what is glaring in its absence from the bill, and that's the regulations. We want to acknowledge and commend the efforts of Ministry of Housing staff—at least one of them is here whom I recognize—who have met with the task force repeatedly over the last couple of years. On Bill 90, we made good progress on the regulations together. But we need some formal comfort now. We don't see any piece of paper in front of us that spells out what these regulations are. Bad regulations will turn what is a flawed bill into a disaster.

In our report, we offer some specific recommendations on the regulations. We ask that you provide very clear direction on reasonable minimum expectations with regard to the recommendations before they're finalized. Really, we want to see a consultation process set up to settle on the regulations. It's going to take some time to hammer these out.

That concludes our presentation.

**Mr David Tilson (Dufferin-Peel):** The issue of regulations is one that's crept up in almost all kinds of legislation that come to this place. It's really difficult to consider legislation, as you know, without seeing the regulations and it's a point that's certainly noted, at least by the members on this side of the committee.

I have a question to Mr Power specifically. You were commenting on more powers, to use a play on words, to be granted to municipalities. One of the problems that

keeps coming up from municipalities that have come to this committee is the issue of funding. Obviously, municipalities are taxed to the limit, and yet if you're asking for more responsibilities—and I agree with you—the question is, how are they going to get paid for?

**Mr Power:** What we're saying to you in this instance, Mr Tilson, in terms of powers is look at licensing, look at improved right of entry powers so we can go in to inspect with the staff that we have. We're not saying we're going to be able to do the whole thing. What we're suggesting to you is that the aims of the bill, while we support this concept, we believe strongly in the safety of people who live in legal or illegal units, in order to address this, we couldn't do it at the present moment even if we wanted to. That's some of the area we're coming to. Keith, I think you have a little more on that.

**Ms Dionne:** I have some on that too. What's really of concern to me is not the issue of who pays for what in this legislation but the integrity of the zoning bylaws of the municipalities. The fact that we have official plans which have been adopted by the majority of municipalities in this province is the protection that we as municipalities have always thought was necessary to protect both us and the residents, whom we all represent. The question of who pays is not the question of who pays in finances but who pays in the long term for what happens to our municipalities.

**Mr Tilson:** That's really what I'm getting at. Obviously, if the increased housing comes about, as is being predicted, the pressures on schools, on municipal services, on inspections alone—I mean, we had someone from the fire marshal's department come and say that every one of these 100,000 illegal units, if that's the correct figure, must be inspected at least once, and that of course would be the responsibility of the municipalities. That's the sort of issue that I'm concerned about, and I would be interested in hearing your comments as to the effect on the property taxpayer.

**Ms Dionne:** It will definitely impact the infrastructure that we have, but to the degree that it would be very costly, I don't think so. The real concerns that AMO municipalities have with regard to what you're requesting is basically that we believe that as municipalities we can control those kinds of things, given the advance powers that have already been indicated through the bill as it's gone through this stage that do give us more powers with the building inspections and gives our building officials more power. The questions will be, is it going to be enough and do we still have the real right to go in? I think Keith has more on that one.

**Mr Keith Ward:** In the relative scheme of things, these costs are not a big part of municipal budgets, although, as Mr Power indicated, a lot of municipalities don't have any inspection capability at all. So it's certainly going to be an issue there. But in absolute terms, any increase in municipal budgets now—and we see the debates all over the province—is going to be a real problem. That then puts us into the liability question: What if somebody does ask us to inspect and we can't? That situation will arise.

**Mr David Johnson:** You've raised a number of good



issues today, and the liability issue is one that I think deserves an extra look. There's one about the trust. I'd just quickly like your thoughts on this. Municipalities have planned their municipalities with the people, with the citizens, through a public hearings process over a number of years. This being sort of put upon them, what happens to the trust in the planning process? People buy into a community, they look at a community for certain amenities, they think they have the right to plan their future with their municipal councils. What happens to that trust through this process?

1100

**Ms Dionne:** What trust? I don't mean to be flippant, but when you don't consult with people and you put out a statement that says that two thirds of the residents of the province of Ontario believe in accessory apartments, they also have a caveat to that, Mr Johnson, and that caveat is: "Not in my backyard. In somebody else's backyard maybe I'd support that, but don't ask me to support it in my neighbourhood."

The absolute essence of any process is to have that input from the members of the community, and not having gone to the community to listen to that, which this committee would probably be very wise to do—if you want to, you can come to the city of Oshawa, and Gord Mills will tell you that out of the eight municipalities he and I both represent, we all have passed zoning bylaws. We all have passed official plans. We had such input into official plan status, and this province finally granted our official plan status a couple of months ago after a very lengthy process. Why did we go through that process when this legislation registers it as null and void? Why did we do this?

**Mr Gary Wilson (Kingston and The Islands):** Thank you very much for your presentation. As I say, it represents all of the views of a lot of municipalities and we're pleased to have it, although it has been pointed out there has been extensive consultation on this issue in the life of our government and even before it, because, as you know, in 1989 the housing policy statement required municipalities to take steps to legalize the many illegal apartments in the province.

Ms Dionne, when you speak of surveys, when all is said and done, the survey that matters is where steps have already been taken to do what people want to do. We've heard from many people in these hearings, both house-holders and tenants, that they want legalized apartments. In the absence of the provisions to make them legal, they have gone ahead and put in illegal apartments, which everybody recognizes is not a good situation. But, again, the housing policy statement asked municipalities to take the steps, and very few have done it in a way that has satisfied many people. So what we're trying to do is bring in reasonable standards for the legalization of apartments in houses, and to bring it into the open so we can have an orderly process about this so there can be accountability.

On your part, what is the reluctance from the municipalities? Why has there been so little action in this regard, in your view?

**Ms Dionne:** Well, I think that's a very subjective,

municipality kind of response, and I'll give you one, if you want one from my municipality. My municipality believes very strongly in its housing statements. My municipality practises what it preaches. It provides housing to a great degree and follows the principles both of the previous government and of this government. What we have not done is needed a hammer over our heads to do it.

**Mr Gary Wilson:** All right. I see what you mean about subjective. So let's turn to some specific items, namely, the issue of liability.

The registry, which suggests that you can keep on top of apartments in houses if you have them registered: Why would apartments in houses be any different from any other residence in the community, or even anything else the municipality inspects? You seem to be suggesting that the municipality is liable to action if they didn't inspect something, or inspect it and didn't see something. Why would that be any different from any other place in the municipality?

**Mr Keith Ward:** They aren't, in a legal sense. The issue is that if a single-family house burns down that didn't have an accessory apartment in it, if that house had been constructed fairly recently, it would in fact have been inspected, and if municipal inspectors failed in their duties in that regard, they would be liable.

**Mr Gary Wilson:** I don't understand then. The way we're setting up with the accessory apartments, if they're built now, once the bill is passed, then they will be meeting the standards.

**Mr Keith Ward:** But as Mr Power says, the issue here is that you've got a combination of legal and illegal. You're going to continue to have illegal, both newly constructed illegal and a vast stock out there that continues to be illegal, or that would have been illegal until they're brought up to standards, but now you've made them legal from the municipal perspective, which they never were before, and so municipalities will have an obligation or care of duty to go in and inspect them.

**Mr Gary Wilson:** Just as it should be for any other residence in the community too, I would expect you would agree. We want safe accommodation regardless.

**Mr Keith Ward:** I agree. No question.

**The Chair:** But your question really was about the registry, Mr Wilson?

**Mr Gary Wilson:** Well, it was partly to do with the registry and the inspection, which occurred to me. I don't know why the municipality would be more concerned about apartments in houses.

**Ms Dionne:** I would think, Mr Wilson, that your government would be very concerned about a registry because you're the ones who are so worried about what's going to happen to the tenants. You'd like to know that they are safe. Wouldn't one think that is the whole process? That's what we're all going through this for, is it not, the protection of those tenants?

**Mr Gary Wilson:** That's right. We think the Landlord and Tenant Act and the Rent Control Act will give them the safeguards they need. I don't understand why you would expect people in accessory apartments to

register when you don't expect home owners to register as well.

**Ms Dionne:** That is not an AMO position.

**Mr Gary Wilson:** All I'm saying is, why are you treating them differently?

**Ms Dionne:** We're not, because we register a lot of things.

**Mr Keith Ward:** A home is known. I mean, if you look at a house, it's there. It was built to some standards. You don't know if a basement apartment is there, and that's the issue from a safety perspective. Unless there's some kind of registry available, you simply don't know if it's there or not.

**Mr Gary Wilson:** Well—

**The Chair:** Thank you, Mr Wilson.

**Mr Power:** Something in my municipality, which is a very small, northern municipality—and you may think that this is an issue that really is only an urban issue and doesn't affect the smaller ones—

**Mr Gary Wilson:** No, no, it's the other side that thinks that. We know it covers—

**Mr Power:** But it certainly does affect as well, and one of the things that we have found ourselves, in a small municipality, is that we have accessory apartments going into single-family dwellings that we're not aware about until someone tells us of them. I think what we've all been saying to you is that without some method, some ability of knowing about these accessory apartments, be they legal or illegal, we have no way of doing anything about it or enforcing it or inspecting them to ensure that they are safe. Surely this is the issue. We're looking at the safety of people in homes. Be it a single-family dwelling that's inspected under the housing act and under the building authority to ensure that it is safe for a family, surely we also want to ensure that accessory apartments are safe for the people who occupy them. If you don't know they're there, you can't find out if they're safe.

**Mr Gary Wilson:** And that's why we want to legalize them.

**Mr Cordiano:** Thank you very much for your presentation. I think the problem is that the government's been living below ground for too long. They've got their head buried in the sand.

**Mr Mills:** That's Chrétien's style.

**Mr Cordiano:** I'll leave you out of this, Mr Mills. It's really the minister's fault. She's been living in the sand.

**The Chair:** Let me go through this again. It's one member at a time and Mr Cordiano has the floor.

**Mr Cordiano:** Quite simply, it seems only logical, and this notion, just to follow up on this discussion earlier, of why should the municipality inspect an accessory apartment, quite simply the answer is that every other building's been inspected when it went up. I mean, when the building was built it had to have an inspection. At some point, an inspection is necessary. If you don't know that the accessory apartment exists, you're not going to be able to inspect it. That's the first point. You

have to have a registration of these units to know that they exist. I cannot see why there shouldn't be an inspection, as there has to be for every other building that goes up in a municipality. I'm agreeing with you, but I think this, just to follow up on that discussion.

**Mr Power:** We thank you for agreeing with us.

**Mr Cordiano:** To me, the only right thing to do is to have a registration of these units, and obviously you want that accomplished by some method or mechanism. You've suggested now, and correct me if I'm wrong, that there be a licensing requirement, that the municipality license these units.

**Mr Keith Ward:** Licensing would automatically set up a registration. That's part of the licensing system, but licensing would also provide an ongoing ability to go back into the properties and make sure that if an order's been issued, for instance, that the order is complied with. So there's a built-in mechanism, through the Municipal Act, that is available to municipalities to control the situation on an ongoing basis.

1110

**Ms Dionne:** The importance of having a registry is that it should be a local registry. Why the province would want to get into the business of registering apartments in houses at the provincial level is just another bureaucratic nightmare for those of us at a municipality who are going to attempt to make sure there is safety for the persons involved.

The registry is important to the degree that Mr Ward has indicated to you, but it should be a local responsibility. Basically, the thrust of the AMO presentation, which I think you all have, is to leave the responsibility of that kind of organizing of a registry to the municipalities. We're the ones who have to deal with it on a day-to-day basis. How many of you are going to come down and deal with an apartment in a house every time you get a call? I'll tell you, I don't think the residents are going to see very many of you too often, but us, we have to be there for that.

**Mr Cordiano:** We have enough problems in our constituency offices as it is.

**Ms Dionne:** I can truly believe that.

**Mr Cordiano:** I'd like our municipal counterparts to do a little more work as well.

**Ms Dionne:** Nice try, but if I gave you my job, I'll take yours tomorrow.

**Mr Cordiano:** That's precisely what I have in mind for you. If you had under this legislation the power to determine where these units might be located in a municipality, as you do now, would there be some way of doing that that's a middle ground; that is to say, that the municipality would still be given the right and the authority to determine, by its own zoning bylaws, where accessory apartments would be located in a municipality?

**Ms Dionne:** Yes, we believe that's the route to go. That is the compromise position and it should be addressed in the regulations, without question. It's too bad we don't have the regulations to deal with at this point in time as well, but we believe that is the compromise position, that we can accomplish the goals that both



of us are setting out to do.

**Mr Cordiano:** I know Mr Daigeler wants to ask some questions, so I'm going to defer to him.

**Mr Hans Daigeler (Nepean):** Thanks for your presentation. We've had numerous groups, particularly legal aid clinics, come before us, and the main argument that they have made, in very strong words, is that this is a human rights issue. People have a right to live, essentially, where they want, in all parts of the municipalities. They have said—I'm using here a quote, because it was said before the committee, applying to Scarborough, in this case, but I'm sure they meant other municipalities as well—that the municipalities have tolerated zoning apartheid and therefore the provincial government has a responsibility to step in and enforce, as it were, human rights. I'm wondering what your reaction is to that.

**Ms Dionne:** I have a reaction to that. I sit on a human rights tribunal, so I'll give you a reaction to that. Under the Canadian Human Rights Acts we all are afforded the right to safe accommodation, safe and affordable accommodation, and I think that is a right we must protect. I don't think we're doing anything in opposition to that. I think what we're trying to do is make sure that those safeties, those mechanisms which make sure that safety is accomplished, protect those tenants. I think we all have the same goal. We're just going about it—I was going to say something, but it's the other way around.

**Interjection:** Go ahead.

**Mr Mills:** They'll throw you out.

**Ms Dionne:** No, Gord tells me they throw you out when you use that kind of language around here.

**The Chair:** With that, I thank you very much for coming and appearing before us today. Your presentation has been helpful. We will take this bill up clause by clause during the week of March 6.

#### ONTARIO HOME BUILDERS' ASSOCIATION

**Mr Stephen Kaiser:** My name is Stephen Kaiser. I am president of the Ontario Home Builders' Association and a builder in the Niagara area. With me is Ward Campbell. He is the first vice-president of OHBA and a builder in the Hamilton area.

The main focus of our remarks today will be on the accessory apartment component of Bill 120, but I want to begin with a more philosophical comment on the part of the bill dealing with care homes.

I should state at the outset that OHBA does not have a direct interest in the question of whether care homes are regulated. For the sake of argument, we are prepared to accept the findings of the Lightman report and the conclusion that some form of regulation is desirable.

The question that concerns us is what legislative instruments and what ministries should handle what issues. Unless we are missing something, we see no reason why the Ministry of Housing and the Rent Control Act and the Landlord and Tenant Act should deal with the sort of problems Dr Lightman described. If regulation of care homes is needed, why isn't the Ministry of Health or the Ministry of Community and Social Services preparing the appropriate legislation?

For several years now, the Ministry of Housing has been consolidating legislation that addresses construction standards and bringing it together in the building code. We support this sort of rationalization. We believe it makes sense for the industry and we believe it makes sense for the government. Bill 120 seems to be just the opposite of this rationalization, and we do not like the signal that it is sending.

With respect to the accessory apartment component of Bill 120, there are two concerns we want to address. One of these has to do with planning issues and the other focuses on construction standards. I am going to talk about construction standards and then I will turn things over to Ward to discuss the planning issues.

Just so there's no confusion, I want to say at the outset that there should be standards for accessory apartments. What those standards are is a matter that probably needs to be settled on a case-by-case basis. The design and layout of houses varies. The construction standards for existing houses vary. The location of apartments within homes varies. The number of people who will be in these apartments varies. All of these variables need to be taken into account by the home owner, a contractor and the local home building official when the design of an accessory apartment is being evaluated.

This is not to say that some general guidelines cannot be developed, and OHBA will be happy to work with the Ministry of Housing to develop these guidelines. I might add that this is an exercise that should be pursued regardless of the fate of Bill 120. The public should have information about what features ensure safety in accessory apartments.

When we raise the issue of construction standards, we are not talking about standards for apartments that are actually created in houses. What we are talking about is standards for all new houses that are being built, knowing that some of them may eventually contain accessory apartments. The buzzword for this, if you like, is "conversion readiness." Again, I do not want to be misunderstood. Bill 120 does not contain any amendments to the building code to make houses conversion-ready. But this is a trend that has already started and it is a trend that will accelerate if Bill 120 becomes law.

#### 1120

The most recent round of building code amendments included a very significant modification. This was to change the designation of "basement" from "storage space" to "living space." In turning the basement into living space, the ministry set minimum ceiling height requirements, substantially upgraded the insulation requirements and added new drainage requirements. Each of these new requirements came with a very hefty pricetag. The total cost of these first steps towards conversion readiness was several thousand dollars in each home.

Last month we heard an official from the Ministry of Housing describing some of the amendments that are being considered for the 1995 building code. Among the proposals were a couple of more steps towards conversion readiness. These were noise abatement and accessibility.

In her opening remarks to this committee, the Minister of Housing dismissed our concerns about the cost. She said the income potential from accessory apartments will actually help buyers enter the housing market. Let me suggest to you that this position is unacceptable and should be offensive to the people of Ontario. In effect, the government is forcing home owners to become landlords in making houses prohibitively expensive.

I want to turn to a point that I made earlier. We are not objecting to standards for accessory apartments. We are objecting to universal standards to make every newly built house in Ontario conversion-ready.

As a practical matter, conversion is not a new house construction issue. There are about 100,000 apartments already in existence. As well, most of the apartments that will be created in the foreseeable future will be created in homes that already exist.

As a matter of principle, if a home buyer wishes to derive income by building an accessory apartment in his or her home, that home owner should make the investment that is required to earn that income. It is a straightforward business proposition and should be treated as such. There is absolutely no reason why every new home buyer in Ontario should be saddled with the expenses connected with accessory apartments.

I will turn things over to Ward now to talk about planning issues that are connected with accessory apartments.

**Mr Ward Campbell:** As I am sure you are all aware, the government is in the midst of a comprehensive review of the planning and approvals process in Ontario.

This review started with the creation of the Commission on Planning and Development Reform in Ontario. The commission spent two years travelling around the province, listening to various stakeholders, reviewing research, writing discussion papers and finally releasing a comprehensive report that recommended sweeping changes to provincial policies and the planning process. In response to the commission, the government has already released provincial policy statements and has announced that it will table amendments to the Planning Act.

The provincial policy statements represent the culmination of two or three years of extensive discussion and interministerial review. I would like to direct your attention to the third statement in the housing policy, which says:

"Opportunities for small-scale residential intensification (including...apartments in houses...) will be provided in all areas permitting residential use, except where infrastructure is inadequate or there are significant physical constraints."

This gives rise to a curious situation. On November 23, the Minister of Housing tabled amendments to the Planning Act that would forbid official plans from containing provisions that prohibit accessory apartments. Then, on December 14, less than a month later, a new housing policy statement was released that would require official plans to provide opportunities for accessory apartments where infrastructure is adequate. Which is it?

The Minister of Municipal Affairs has said he wants to set out the government's expectations and requirements more clearly; he wants to increase the consistencies and predictability of the process. You can, I hope, sympathize with the industry's scepticism when ad hoc and apparently incompatible changes to the legislation are allowed to occur simultaneously with and outside of this systematic review.

The Ministry of Housing pre-emptively recanted its own policy statement. It should be noted that the commission explicitly addressed the issue of as-of-right zoning that would permit changes such as intensification. The commission rejected this, saying, "It is a matter of municipal choice."

We have met with ministry officials on several occasions to discuss the impact that accessory apartments might have on municipal infrastructure. By municipal infrastructure, I mean the whole gamut of services ranging from sewer and water, running to things like parking, libraries and recreation, and ending with social services.

In response, these ministry officials paint us a picture of a fluctuating population. Couples with no children move into a new subdivision. Then the children arrive and the population goes up. Then the children leave and the population goes down, and so on. The effect of accessory apartments, we are told, is to fill in these valleys. The population peak will not be exceeded, but the valleys will be eliminated.

This sounds fine in theory and it may even work for a street, but I have not heard anybody talk about the pressures of growth on the community as a whole. It is likely that it is just these valleys on individual streets and in subdivisions that take some of the pressure off other parts of the community that are growing. If people start travelling a couple of kilometres to use an underutilized park or library, this warns the municipality of shifting needs and provides an outlet while the community resources are reallocated. So if we assume that accessory apartments will not lead to an increase in peak population in individual developments, there are potential problems for the community as a whole.

Not everybody believes that accessory apartments will only fill in the valleys. We have been involved in a series of meetings to discuss parkland dedications, and it is very clear that many people believe accessory apartments will result in higher overall populations. These people are already asking for larger parkland dedications in response to Bill 120.

We are not questioning the merits of intensification. All we are saying is that it should not proceed without controls that can monitor its impact and, if necessary, impose restraints. In our opinion, legislation that removes or weakens these controls is not compatible with responsible planning.

Just to conclude, care homes are a unique type of accommodation and should be dealt with in appropriate legislation. The accessory apartment component of the legislation contradicts the ministry's own housing policy and in any event is fraught with unknowns. Bill 120 should not be passed.



Stephen and I will be happy to answer your questions.

**Mr Gary Wilson:** Thank you very much for your presentation. It covered both parts of Bill 120. I'd like to begin there because Mr Kaiser raised the issue first, and of course, Mr Campbell, you referred to it.

No doubt you know the Lightman commission's recommendations on which Bill 120 is based. It is very much a housing issue. In fact, where Lightman recommends that rest homes be subject to part IV of the Landlord and Tenant Act, which of course is a major part of the bill, he said that the importance of ensuring this goal—that is, the goal that residents in rest homes, or care homes as we call them, have rights that other tenants have—cannot be overstated. So certainly the right to protection and security of tenure as well as the protection of privacy and other rights that most tenants in our province have, they should be entitled to as well.

As far as the health issues that you raised, you're probably aware too that there are developments under way, and they're long-standing too—I'm thinking of the long-term care redirection, for example, the provisions under things like the Advocacy Act, the Substitute Decisions Act, the Consent to Treatment Act—that are dealing with the issues of the care part of the accommodation. So I think it's fair to say Housing has a responsibility in this area and it's very appropriate that it be part of Bill 120. Would you care to comment further on that?

**Mr Kaiser:** In regard to the Lightman report, we agree with the problems as outlined. What we are suggesting, though, is that those problems should be dealt with not within the confines of Bill 120 but by the Ministry of Health or by the Ministry of Community and Social Services.

**Mr Gary Wilson:** I'd like to turn to other parts that you raised in your presentation. Mr Campbell, you talked about the distribution of people in a community and how you handle that, the peaks and valleys I think you called it, and whether people move from one area of the community to where services are—sorry, move on a temporary basis, say, by driving there or getting there some other way, as opposed to living in the area, which is what accessory apartments would allow, that the people would live near the services as the valley's population changes, as the demographics of a neighbourhood change. I guess this is what 120 is seeing, that there's a more balanced approach to providing the services people need, and this is what accessory apartments will allow.

**Mr Campbell:** For a particular street, you might be right: You're using the services on that street. What we're saying is I don't think anybody has studied the effects on the overall community. Where they have a valley in the one neighbourhood, you could have above a peak in another neighbourhood. What we're saying is that those services will go to help alleviate the problems in that neighbourhood.

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It should be a municipal decision whether they want to allow intensification in a certain area, because they have the infrastructure to do it. If the infrastructure's not there, they shouldn't be allowed to put basement apartments in.

It's just going to put a demand on services that are not available.

**Mr Gary Wilson:** Isn't the problem that people are making that decision whether the municipality allows them or not, and that's why we have so many illegal apartments in houses now? That is completely unregulated or unplanned. You don't know they are there, so you have no idea what the demands on the services are going to be.

**Mr Campbell:** All you're doing now, the way we look at it, is allowing them to do it anywhere they want, and it's just going to make the problem worse.

**Mr Gary Wilson:** That's not true.

**Mr Campbell:** If people are breaking the law now, we can't stop them. To make it legal for them doesn't necessarily solve the problem.

**Mr Kaiser:** Perhaps I could respond to that. Being involved in the planning process, I'm currently trying to get, for an example, a 48-unit town house project piece of property rezoned. It's taken four years to date in terms of meeting with the municipality, the neighbours and the community in regard to the impact of that proposal in that neighbourhood: parking, sewage allotment, water. All those issues have to be addressed, and that's for 48 housing units. All of a sudden, under this legislation, if this project was up, those units could be doubled. That's very, very dangerous in terms of the process.

**Mr Cordiano:** I found your perspective on this rather enlightening. As I was listening to you, I kept thinking that dealing with the Minister of Housing and the Minister of Municipal Affairs must be like dealing with the two-headed monster, because one is going one way and one is going the other, and they're both trying to eat each other up.

I think that what you're telling us is quite frankly that there are inherent contradictions in the planning process as set forward by the consultative group and the Ministry of Housing. Obviously, this perspective that you bring to us with the impact that may result on an entire community is not really something I've heard brought forward to the committee yet. I think it is rather interesting, because quite frankly what we've heard from most people is that infrastructure in almost all cases in all municipalities is there to accommodate the additional population. Your view is obviously that is not the case, given the peaks and valleys, as you described them, in population.

**Mr Campbell:** What we're saying is that it may not be the case in all situations. That's what we're objecting to, the fact that you're making this as-of-right anywhere. There are a lot of situations where the infrastructure is not going to be there. The Sewell commission recommended that it be where the municipality felt the infrastructure was there to carry it. So we support that. If there are opportunities for intensification, we support it. We don't think it should be as-of-right anywhere in Ontario, because there are a lot of cases it's going to happen where there isn't. There are areas where there will be no basement apartments; there will be areas where there will be 100% basement apartments. It has to be regulated.

**Mr Cordiano:** Really, what it comes down to is that the municipalities should be allowed to continue to do the job that they do now, and that is to determine to what extent capacity does exist and to what extent the zoning bylaws that are in place make any sense to this type of planning.

**Mr Kaiser:** That's correct, and I've got another example, if I could, to illustrate that. Another builder down in our area wanted to put in a small cul-de-sac with six semidetached units, so we'd have 12 housing units. MOE said there just wasn't the capacity in the system to accept any more units in that area; hence, the proposal was turned down. The builder was not allowed to build the semidetached units. That same trunk sewer line has hundreds and hundreds of homes on it right now that this legislation would allow basement apartments to be created in.

**Mr Cordiano:** I obviously have more time. Let me sneak one more in there. They're really intensely in conversation there.

Did the Ministry of Housing, or the Ministry of Municipal Affairs, for that matter, consult with you on Bill 120?

**Mr Kaiser:** We've been involved in the consultation process with the Ministry of Housing in regard to this for a number of years, yes. We have made our concerns known prior to it.

**Mr Cordiano:** But prior to the introduction of Bill 120 in the form in which you see before us, in omnibus legislation, did the ministry make an effort to consult with you?

**Mr Kaiser:** Not in regard to this specific bill, no, but the issue—

**Mr Cordiano:** So they at no time told you that this bill would be combined with Dr Lightman's recommendations in an omnibus piece of legislation?

**Mr Kaiser:** That's correct.

**Mr Cordiano:** And obviously your view is that the two bills are not compatible and that they should be separate.

**Mr Campbell:** We feel they're separate issues.

**Mr Cordiano:** Okay, thank you.

**Mr David Johnson:** We think they should be separate issues as well, and I think your comments with regard to the planning are bang on. When we talk about the Sewell commission it's interesting that Sewell didn't suggest that the province get involved in the intricacies of municipal planning. Sewell said, and this is a report that the government seems to have a lot of faith in, that the province should set overall policies and then leave the planning to the municipalities, and here it's doing exactly the opposite.

**Mr Campbell:** It's confusing to the industry, there's no question.

**Mr David Johnson:** It's confusing to municipalities, your industry, everybody, I'm sure. It seems to me the main point here may be that there's some irony involved in that the government is apparently doing this to provide more affordable housing, and yet your message, from

your experience, is clearly that in setting up for this what it's doing is making housing more expensive. The actions that they've already taken in terms of the ceiling height in the basements, I guess, in terms of the extra insulation, in terms of water—

**Mr Campbell:** Drainage.

**Mr David Johnson:** —the drainage around the outside, and those kinds of things, and I guess your concern is water sprinkling in the future, as a compulsory, may be a very expensive component. So here they are, by putting these extra requirements on homes, forcing the price up and forcing the price of a home out of the reach of thousands of people who live in the province of Ontario. This is some irony.

**Mr Kaiser:** That's right. I heard the group before us say that they believe that Ontarians should have the right to decent and affordable housing. We certainly back that and that's part of our mission statement, that each and every Ontarian has the right to decent, affordable housing.

But as these changes are made to the building code for this conversion readiness which I spoke of, we're adding thousands of dollars to the cost of new housing within the province and yet only a small fraction of those units built will actually be utilized for conversion into basement apartments.

**Mr David Johnson:** So it should be those units that should pay for it, and not every one of them.

**Mr Kaiser:** It should be the owner of the building at the time he makes that decision on whether it is financially viable to sink \$20,000, \$25,000 into his basement and make it an apartment.

**Mr Tilson:** I have one question. I watch the way that you people must have your i's dotted and t's crossed when you have to prepare plans of subdivision and proceed in the manner of constructing houses, what with considering roads, sewage, water, aside from the cost of meeting building code requirements, but you're really put through the hoops and in fact I'm amazed that your report isn't more cynical than perhaps it could be.

The question that I have is that considering the hoops that you are put through in developing new housing, and I'm thinking specifically of residential housing, single-family, town houses etc, is the game going to be changed now, when municipalities have to look at sewage capacity and water capacity? Are there any rules now, or what are you going to do?

**Mr Campbell:** This is one of the questions that we've raised all along. Are the municipalities now going to say, "Each of these houses could have two units in them, so we have to have double the sewer capacity and double the size of the pipe and double the water capacity, again adding to the cost of all housing in Ontario when maybe 5% of the units will have an apartment in them"? They'll look at that, they will. They're already doing it with the parkland dedication. You know that the other services are coming next, and again, it'll raise the cost of housing in Ontario.

1140

**Mr Tilson:** But I'm not looking at the cost of hous-



ing; I'm just talking about putting these things together. I know what you have to do to put it together now. I don't see how it can possibly be done, quite frankly. Cost is one issue. It's almost an impossible situation because conceivably every house—let's say you had a development with single-family homes. Every one of those houses, which I doubt if that could happen—Mr Mills I'm sure will jump on me for that—but there's no question that you have to raise that possibility, particularly in university towns.

**Mr Kaiser:** You're absolutely right. Let's go back to the 48 town house units. An unscrupulous developer, within the act, as I see it, could negotiate for the 48 units, have parking for 48 units, sewage allotment for 48 units and convert that thing as soon as it's up and all of a sudden you've doubled the number of units and the rental income within the building.

**The Chair:** Thank you, gentlemen, for appearing today. We appreciated your presentation and your time.

NEWMARKET HERITAGE NEIGHBOURHOOD  
ASSOCIATION

EAST GWILLIMBURY HEIGHTS  
RATEPAYERS ASSOCIATION

**Mr Tom Taylor:** My name is Tom Taylor. I am a member of the Newmarket Heritage Neighbourhood Association. This is Marilyn Pontuck, a member of the East Gwillimbury Heights Ratepayers Association. We are both from the town of Newmarket and you've had a submission from the town of Newmarket to this committee on the 10th, I believe it was, of this month.

I've asked the gentleman just to pass around some pictures and also some reports. The reason I'm doing that is to give you an idea of the interest that the people in these areas have. We had a meeting approximately a year and a half ago and I guess close to 200 people came out to that meeting from the various areas involved. They were then asked to give their comments on what took place.

What you have before you, and I would ask that they be passed around, are four reports that individuals or couples within the associations took the time to do their homework on and to prepare back to our parent body. The content is very important to us as associations, but I think to yourselves it's important because I think it gives an indication to the extent that the people themselves are interested and wanted to in fact have input into it.

We're here today to explain to you the necessity to legalize and require registration for all units in multiple dwellings and give municipalities the power to inspect all multiple units on an as-of-right basis.

The East Gwillimbury Heights Ratepayers Association and the Newmarket Heritage Neighbourhood Association are made up of home owners and tenants who are interested in keeping and improving neighbourhoods they can enjoy and be proud of. To this end, submissions have been made to the Ministry of Housing, the Housing minister and on an ongoing basis to the town of Newmarket. This is done by people in these neighbourhoods on a totally volunteer basis, with no financial or other forms of help outside their own associations. These people have

no political associations and do not have a political agenda, only a deep concern for their families and their homes.

Mr John Dowson has done a tremendous amount of work through research, meetings, letter writing and generally spearheading the work that has been done. He is the person who should be sitting here, but he is unable to be here because of a serious operation he just recently underwent.

We are familiar with the submission made to this committee by the town of Newmarket on January 20 and concur completely with its contents. Our purpose today is to put a different face on these concerns and enable you, the committee members, to see the situation with our eyes. Our eyes are the ones to see the conditions in our neighbourhoods. Your Bill 120 directly affects our daily lives.

The recommendations from you, the members of this committee, will affect the regulations that will govern the practical implementation of Bill 120. While we accept the principle of intensification, it is important that you understand the ramifications of its practical application.

I am a past president of the children's aid society, and I am also the past chairman of the affordable housing committee within the town of Newmarket, which was one of the first committees in the province of Ontario. It was very successful and it was used as a model by other municipalities as far away as Alberta and British Columbia. I'm also the past chairman of the social services for the region of York.

I mention this only because you've had submissions from various organizations such as the Scarborough Housing Work Group, the Inclusive Neighbourhoods Campaign and the children's aid society community forum, being very active in promoting passage of Bill 120. But in all of their literature, without exception, they refer to the safe and healthy conditions, and we totally agree with that. And the reason I mentioned my own background was because I can understand where they're coming from, but the application of Bill 120 I don't think is as simplistic as it's made to seem.

A letter dated April 28, 1993, a copy of which is in your package, from the Ministry of Housing to Mr John Dowson, stated that the average conversion rate to be expected would be 15%, although the rate in the city of Toronto is 20%. An average number like 15% does not seem to be a significant problem. However, this does not reflect the extent to which specific neighbourhoods will vary from this average. "Average" I think is a word which can be used in many ways. After all, a man standing with one foot in a bucket of boiling water and the other in a bucket of ice can be said to be, on average, comfortable.

In fact, in some areas, as has been documented for the town of Newmarket, the intensification increase is already between 30% and 50%. On some of the streets, where Marilyn and I live, that intensification already has been documented and it's running at 50%. This has already caused significant problems, and it is reasonable to expect that the Newmarket experience will occur across the province, causing serious neighbourhood and long-term

social problems. What we'd like to do is just try to illustrate how it affects us on a day-to-day basis.

**The water supply:** Due to decreased water pressure, you can no longer bathe or shower yourselves or your children during the two daily peak consumption periods, and that is happening in the areas where the intensification has been the greatest. To get a feeling of that, I would ask committee members, tomorrow morning don't have a bath or shower and come here and see how you like it. You may not have too many people show up to your meetings in future.

**The sewage line capacity:** The size of a line on any street is based on specific population densities. If you add 30% to 50% to that density the inevitable will happen: The sewage backs up into the houses, and this is happening on our streets.

**Parking:** As can be seen from the photographs that you have seen, cars are parked on the front lawns, on the road, on the sidewalks and on the boulevards. With many streets having no sidewalks, or sidewalks on one side only, children cannot walk at the side of the road and are forced to compete with the traffic.

**The safety element:** To live in a basement apartment or in one on a second floor with access only through the existing dwelling, as is permitted in your Bill 120, is a setup for disaster, as Catherine and Tyler McNutt would tell you if they could. They died in their basement apartment when all the other occupants of the house got out safely on January 2 of this year.

Safety cannot be ensured unless you permit as-of-right access to the municipalities to enforce the statutes that are presently in existence.

Other issues such as schools, parks, the effect on local taxation by not allowing lot levies, even though you do allow them for granny flats: Long-term social costs could be elaborated on but time does not permit us to do so.

The recommendations I think are pretty simple and straightforward. Recognize that all the issues before this committee, except for the economic ones, can be solved by doing two things:

(1) Legalize and require registration for any existing and future residential units, as set forth in Bill 120 amendment to section 1 of the Planning Act; and

(2) Recognize the integrity of our municipalities by passing legislation to permit municipalities to inspect on an as-of-right basis and take any other actions needed to maintain healthy neighbourhoods.

I think it is essential that Bill 120 be amended to enable municipalities to ensure the safety of multiple units and to preserve the health and safety of our streets and neighbourhoods.

I would just like to stress—I've sat here and listened to the last two presentations and I have received five other presentations that have been made to your committee—that the face we're trying to put on it may be simplistic inasmuch as it affects things directly, but that is how it affects us on a day-to-day basis. I've heard the discussions about the average populations, the Planning Act and many other things, and what we were trying to do was relate to you how in fact it does affect us on a

day-to-day basis. Do you have anything else to add, Marilyn?

**Ms Marilyn Pontuck:** No.

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**Mr David Johnson:** Thank you very much for this deputation. I'm sure you've read through Bill 120 very carefully, so I certainly appreciate your comments on your second point, which is that we should respect the integrity of the municipalities and give them the authority and the power to inspect units on an as-of-right basis and take the actions that are needed to make them safe and healthy etc.

It's the government's claim that through Bill 120 they do give municipalities power to ensure the safety of apartments. I would like your views on that, since you've obviously delved into this quite deeply.

**Mr Taylor:** I guess the point being made, getting back to the beginning of it, is the integrity of our municipalities. Planning has been a municipal function for some 40 years now, and nobody knows the ins and outs of a municipality better than those people who are directly there.

Mr Wilson, earlier on, was talking about the averages on streets and so on. This bill obviously goes right across the province of Ontario, to small municipalities, to cities, to whatever, and the people who can best apply the Planning Act and the standards in the Planning Act are those people who are directly involved in it, not the people who are sitting here, who represents 20 or 25 municipalities in the entire province.

When I refer to the integrity of the municipalities, that is that the Planning Act has been in existence for an awful long time. They have built up a great deal of expertise in the official plans and in the zoning bylaws, and I think it is properly given to them to interpret and to apply the zoning standards.

I don't think there's a comment that you can make that would take away from the fact that on Marilyn's street or on the street around the corner from her, 50% of those homes have been converted. I don't know how you would possibly word Bill 120 to take into account those types of things which are happening.

**Ms Pontuck:** The effect on our neighbourhood is dramatic. Our neighbourhood is now commonly known as Dogpatch, to give you an idea of what our neighbourhood has turned into with this kind of intensification.

**Mr David Johnson:** I certainly appreciate your views on this. The municipalities are saying that the provincial government, through Bill 120, isn't respecting their integrity and isn't giving them powers to come to grips with some of the problems that, undoubtedly, you're facing. The concern is that we'll be encouraging more basement apartments, and municipalities will not have the right of entry. They certainly don't under this legislation; there's no question about that.

**Mr Taylor:** Bill 120 does not really affect the practical application of the job that the municipalities have to do.

**Mr David Johnson:** That's right, yes.



**Mr Taylor:** Under no circumstance.

**Mr David Johnson:** It would be equally as tough and the problem will be more pervasive.

Notwithstanding that, it seems to me, if I understand your position, it's a very generous one. You're saying give the municipalities the authority, which is a very commonsense sort of approach, and then go ahead and legalize all the apartments. You're not putting any other strings on it, I gather.

**Mr Taylor:** No. I think by doing those things you will find that an awful lot of—in Marilyn's area, in the one street that we had canvassed, the amount of absentee landlords was unbelievable, and they were the worst situations.

**Mr David Johnson:** Absolutely.

**Mr Taylor:** They were just intolerable.

**Mr Tilson:** I have one question. The photos you passed around were interesting, particularly a couple of photographs that had piles of garbage and waste outside. It is interesting that from time to time municipalities get concerned in their planning process—and it all does get back to the planning process. If you're going to do something, plan it. Just don't go in willy-nilly and come-what-may.

There is one municipality in my area that has a two-bag policy for garbage. There's always been the fear that Municipal Affairs will not allow plans of subdivision until municipalities have their waste under control. In other words, where are they going to put their waste?

So it is interesting. You've just drawn another issue, which I must confess I hadn't thought of, that is, the disposal of waste when you see more people in particular communities piling up waste on the sides of roads. In fact, those pictures are almost graphic. It's just a comment that I'd like; I don't know whether your group has thought about that. It's just the simple issue of disposal of waste.

**Ms Pontuck:** Well, there'd be no way you could limit the number of bags going out as long as you have the number of people, the intensification you have. People make garbage and the more people you have, the more garbage you have. If you're going to allow neighbourhoods like mine to intensify by 50%, you're going to get a lot of garbage.

**Mr Tilson:** It still boils down to the issue of planning. Municipalities must plan for schools, for water, for sewage and, yes, garbage. It's just another issue that I don't think the government has thought about in putting forward this legislation.

**Ms Pontuck:** And unless the municipalities have the power to register these apartments and see that they're being reasonably used, there's no way they can do that planning.

**Mr Mills:** Thank you for coming here. I listened to you and I looked at the photos too, and I can tell you that in Durham region where I live, we have some days when you can put out everything, and I could take photographs of every single-family dwelling in my neighbourhood with the same pile of garbage.

**Ms Pontuck:** This is common occurrence.

**Mr Taylor:** We didn't come here to try to deceive you, Mr Mills.

**Mr Mills:** I want to talk to you about the parking. You're showing me some photographs, and again I can tell you that parking in the riding I represent is as intense as that because there are four or five teenagers living at home. Right on the street where I live there are four or five cars. So to say that basement apartments create parking problems, I don't agree with you.

**Ms Pontuck:** We've got the teenagers living upstairs, and the additional tenants and their cars downstairs, and one-car driveways.

**Mr Mills:** Okay. I want to talk to you about safety. We had before this committee this week the acting fire marshal of Ontario. He knows fire stuff, right? His comments don't really jibe with what you're saying here about safety. He said there are absolutely no statistics available in the province of Ontario that suggest—in fact just the opposite—that there are more fires in basement apartments and more people die as a result of fires in them. So those statistics that you say there—you say that a second floor is a setup for disaster, and the acting fire marshal of the province didn't agree with those statistics.

**Ms Pontuck:** If you were to come and look at the basement apartments in our neighbourhood, I think you might agree with us because—

**Mr Mills:** I listen to the fire marshal; that's what he told me.

**Ms Pontuck:** Has he come and looked at our neighbourhood?

**Mr Mills:** The guy is obviously an authority on fire and safety in the province, I would think, or else he wouldn't be in that position, and he said that as far as basement apartments in the province were concerned, he couldn't see that it presented any greater problem for safety and fire protection than in any single-family dwellings.

**Ms Pontuck:** Perhaps if they're built to standards that can be inspected, that would be true, but that doesn't appear to be the case right now.

**Mr Mills:** I think my colleague wants to speak.

**Mr Taylor:** Could I just comment to that? Mr Mills, the fire chief in the town of Newmarket, who I'm sure, recognizing what you were saying in terms of the fire marshal being very familiar with the province of Ontario, is probably more aware and more conversant with the town of Newmarket, and if you look at the submission by the town of Newmarket previously, he very strongly says that they are a disaster.

**Mr Mills:** The authority for the province is the fire marshal.

**Mr Gary Wilson:** Thank you very much for your presentation. I guess the thing that seems clear, though, is that the conditions you described have evolved under the provisions of planning that exists now, so I don't see why Bill 120 would affect that. They've developed there. What we're trying to do is to regulate it, and many of the things that you've raised, in fact, 120 is addressing.

**Ms Pontuck:** Or will legalize.

**Mr Gary Wilson:** In the first place, you can only put one apartment in one unit, a detached or a semi-detached, as it's laid out in the bill. As it is now, you don't know, because they're illegal. There's no process to monitor what's happening. So in some of the cases in your neighbourhood, it will help things.

**Ms Pontuck:** Yes, but Bill 120 will legalize these same units, and they're just as unsafe, the intensification is just as bad, the problems we're having with sewer and water.

**Mr Gary Wilson:** That's not true. There are conditions laid out that they can't be put in place without regard to whether services, for instance, can take the added units. It's the same as any new development, and this is one of the considerations. If a municipality turns down, say, an application for an apartment in a house but then grants development in the same area, there seems to be a contradiction there; that is, if they turned down the apartment because there are no services or you've reached the limit on services. The municipality still has that right to monitor its capacity. It only makes sense that you'd want to have orderly—

**Mr Taylor:** Mr Wilson, can I understand you? Are you saying that if I own a house on street A, and I want to put an apartment in my house on street A, if the line running down outside my house on street A is not adequate, I cannot do it? Is that what you're saying?

**Mr Gary Wilson:** That's right, if you apply it to the municipality. We're legalizing it so the municipality has those factors.

**Mr Taylor:** Where does it say that in Bill 120?

**Mr Tilson:** Bill 120 doesn't say that, my friend.

**Mr Taylor:** I can't find that anywhere. I heard you mention this before, and I'm at a loss.

**Mr Gary Wilson:** The legislation provides for standards. That's the whole purpose of the legislation.

**Mr Taylor:** Where are the standards, then? I'm sorry.

**Mr Gary Wilson:** They're going to be covered in the regulations.

**Mr Taylor:** So what you're saying is that this will be in the regulations? Is that what I'm understanding you to say?

**Mr Gary Wilson:** To allow municipalities to apply reasonable health and safety standards, as well as—

**Mr Derek Fletcher (Guelph):** And the fire code.

**Mr Gary Wilson:** The fire code will be there as part of the safety, but there's also a provision that, just like any other applications, the infrastructure has to be able to take it.

**Ms Pontuck:** What will happen to neighbourhoods like mine where these illegal apartments already exist well beyond the level they should?

**Mr Gary Wilson:** If that's true, they have to—

**Mr Fletcher:** Meet the standards.

**Mr Gary Wilson:** —meet the standards, exactly. If they don't, if a house has two apartments, the bill doesn't legalize them. Only one would be legal.

**Ms Pontuck:** But we have a 50% intensification. The sewer lines, the entire infrastructure is unable to handle that. Will you say, "Okay, 35% of you current landlords have to stop renting"? Is that what you're saying?

**Mr Gary Wilson:** It's up to the municipality. After all, the municipality should have been looking after those issues now.

**Ms Pontuck:** But they can't because they're illegal; they have no right of entry.

**Mr Fletcher:** Yes, they do.

**Mr Gary Wilson:** No, they have a right of entry; of course they have.

**Mr Taylor:** How?

**Mr Gary Wilson:** Through a search warrant. If it's a legal apartment, after all, what could be more—

**Mr Taylor:** I'm sorry. Have you gentlemen tried to get a search warrant? Our municipality has tried time and time again, and you cannot get the search warrant.

**Mr Gary Wilson:** Well, the provisions are there. In any case, Bill 120 doesn't affect that, though. I don't understand why you would think that 120 is going to worsen that situation. It just regulates it.

**Mr Taylor:** We are in favour of regulations.

**Mr Gary Wilson:** Well, you'll get it.

**Mr Fletcher:** The fire marshal can enter any time without a warrant.

**Mr Taylor:** The fire marshal?

**Mr Fletcher:** Yes.

**Mr Mills:** Any time.

**Mr Taylor:** All right, the local fire department can't; the fire marshal can. You get a hold of the fire marshal's department and see what their backlog is. Our municipality tried it. Their backlog is six to eight months before they can appear in our municipality, so don't sit there and say the fire marshal can get you into an apartment. You've got to wait six months.

**Mr Gary Wilson:** Or his deputy, which is a fire chief, as I understand it.

*Interjections.*

**Mr Gary Wilson:** Some 100,000 illegal apartments isn't a nightmare?

**Mr Taylor:** Our fire department is not the fire marshal's office.

**Mr Gary Wilson:** Okay, so let the people live in illegal and unsafe conditions.

**The Chair:** We appreciated your presentation. The committee will be in recess till 2 o'clock this afternoon, when we will continue to hear public deputations.

*The committee recessed from 1205 to 1402.*

**Mr Mills:** I have a small motion I'd like to make in so far as the public hearings on Tuesday, February 15, in respect to Bill 21 are concerned. I understand there is time available, and my colleague Mr Wessenger, whose bill this is, and I would like to introduce three more witnesses in that time slot as per the list that you have in front of you. It doesn't extend the hearings; it just makes use of the time that's available.



**The Chair:** Mr Mills, would you like to read the names of those presenters in?

**Mr Mills:** Yes, sure.

**The Chair:** I think the most appropriate motion would be that they be heard. The clerk will try to accommodate them, but that's not necessarily the time they might get.

**Mr Mills:** I would move that Bill Williams of the Trenton Trailer Park, Joe Joy of RR 1, Niagara Falls, and Mark and Susan Young of Tall Trees Trailer Park, Barrie, Ontario, be added to the witness list in the time slots available on February 15 and 16, 1994. I think you have the reference there.

**Mr Tilson:** Is this for Bill 120?

**Mr Mills:** Bill 21.

**The Chair:** It deals with Mr Wessenger's private member's bill, Bill 21. Is there further discussion on Mr Mills's motion? All in favour? Carried.

#### ONTARIO MARCH OF DIMES

**Mr Terry Cooke:** My name is Terry Cooke. I'm the independent living coordinator for the Ontario March of Dimes. I have responsibility for our housing and support service programs across the province. With me to make the presentation today is a volunteer with our government relations committee, Mr George Eaton.

**Dr George Eaton:** We are here to lend support to the legislation which is proposed. You have a brief, which is a fairly short document. Perhaps I could save some time merely by highlighting some of the points in it.

First of all, let me say a little about the March of Dimes, which was incorporated in 1951 to fund research to find a cure for polio. After the Salk vaccine, the mission of the Ontario March of Dimes began to evolve, and now it has responsibility to assist adults with physical disabilities to achieve meaningful and dignified lives.

At the present time the Ontario March of Dimes is active in over 100 communities across Ontario, both as partner with persons with disabilities and in the provision of services to these adults. It's with respect to one particular area of service, the independent living assistance activity of the March of Dimes, that we are really here today. There are other activities which are described on page 2. I don't think I need to take your time on that.

At the present time the Ontario March of Dimes provides what are called attendant services. This is the largest program of the organization at the present time. Right now the Ontario March of Dimes annually provides attendant services, which I'll describe a little later on, to over 600 disabled persons throughout 14 integrated apartment projects and 17 outreach projects across Ontario. Mr Cooke is the person responsible for the administration of these housing projects.

There's the housing side of it, and then the Ontario March of Dimes provides services to those who are in those housing schemes. The attendant service, as you see on page 3, is a non-medical, consumer-directed program that provides assistance in areas such as meal preparation, dressing, transferring and toileting. The March of Dimes' emphasis is really on the service to those who are within

these housing schemes. We are both engaged then in a contractual relationship with other providers of housing to put the clients within these houses and then to provide them with the services. At the present time, as you will see on page 4, the Ontario March of Dimes is also going to get into the housing business itself. It has established a non-profit housing corporation and will be getting into the matter of providing affordable housing.

It's largely in our area of work, in what we call the independent living assistance, that we are here today to lend support to the legislation. Our concern is that the people for whom we provide attendant services are permanent residents or tenants in these houses, and we believe they should have the full protection of the Landlord and Tenant Act. This is true, we feel, irrespective of whether they are the beneficiaries of attendant services, subsidized services or whatever, such as is the case when the Ontario March of Dimes provides these services to them in the housing.

We feel the proposed amendments are helpful. It will give to disabled persons who are tenants the same rights as others. We feel that as tenants they should have the right to deal directly with their landlords and to enjoy the protections that you propose to give to them. The Ontario March of Dimes does not act as an intermediary in terms of the tenant and the landlord. We focus on the services made available to these disabled persons who are tenants.

#### 1410

We are very pleased to see that what is proposed for them is the protection of tenancy rights, because we feel as disabled persons they are particularly vulnerable in that they could lose an accessible apartment and be forced to live in less appropriate housing. For a disabled person who must have an accessible dwelling, we feel they are left particularly vulnerable. It could be a very serious and threatening problem for them. Therefore, that is why we feel the protection which is now proposed under the new legislation will in fact be a very, very positive step indeed.

Really what we are here to say is that the amendments proposed to the Landlord and Tenant Act, offering protection to disabled adults living in attendant service projects, are worthy of the support of both your committee and the provincial Legislature.

As I said, we are here really with a specific focus. I do not intend to take more time than is necessary for you to understand and very much appreciate that at this time we are here to give wholehearted support to the proposed legislation. We are happy to respond to any questions or clarification that you may need.

**Mr Tilson:** With respect to people who are providing care services, one of the concerns that has been put forward to this committee is the issue that these places will now be subject to rent control and all the various services you provide—I don't mean you, I mean the type of institutions that perhaps you're involved with; some of them you are and some you aren't, I suppose—whether it be food, laundry, grooming, crafts, entertainment, transportation, a whole range of fees that normally one doesn't expect in the landlord and tenant situation as a lot of us think of it.

One of the concerns is that because of the definition of all compensation being included in rent control, it's going to make it very difficult for these institutions or facilities to operate. Could you comment on whether you agree or disagree with that?

**Mr Terry Cooke:** I think the answer in a nutshell, we have found, over the past dozen or so years that we have operated as attendant service providers and worked in conjunction with non-profit and cooperative landlords, is clearly distinguishing between the services that we are contracted to provide and which are funded as a transfer payment through the provincial long-term care ministry and the landlord and tenant rights and responsibilities; that we're able to distinguish.

I suppose our feeling, if you will, is that what we're doing on a contractual basis shouldn't vary and the rights and obligations of the tenants shouldn't vary based upon whether or not we are on a 24-hour basis, located at and serving a particular building, any more so than if we're doing it through our outreach program which would just come to your home or your town house or your apartment.

What we're trying to say is, recognize that service and housing are distinct issues. We don't believe they should be tied together and we're suggesting that our experience tells us that eligibility for sports services shouldn't compromise basic protections under the Landlord and Tenant Act.

**Mr Tilson:** That's the problem. The legislation has a definition of rent that talks about "any consideration paid or given." In other words, it's the whole ball of wax, and that's the problem. It may well be that certain rents should remain—because you're only allowed what, 3.2% every 12 months, and you may have increases of taxes or transportation services, or more capital expenditures are required.

It's a problem that has been expressed as well as the issue that these are health matters and that it might be more appropriate that the traditional landlord and tenant issues, which apply to granny flats, garden flats, accessory apartments, should be distinguished from the facilities that you represent.

**Mr Terry Cooke:** I would suggest that we don't consider the work that we're involved in as a facility. In fact, even where we have undertaken to serve as a landlord, we not only house and service disabled residents, but we believe in an integrated approach that has other able-bodied renters living in the building.

What we suggest is that those people who are renting as just average renters off the street and those who are disabled tenants who come to us because we provide an accessible accommodation and support services should be clearly treated by the same token or in the same fashion whether or not they happen to have a disability and happen to require some support services. If there needs to be clarification around the definitions, I would suggest that's the responsibility of the men and women on this committee.

**Mr Tilson:** I quite agree.

**Mr Terry Cooke:** How you would facilitate that

clarification is your issue. I suppose our position in principle, though, is that we want the same protection provided that would prohibit or impede the ability of a landlord who might decide that because of eligibility or because of the status of someone's disability they somehow would have less rights under the act than they otherwise would.

**Mr Tilson:** I guess the problem is the issue of service. You don't want the services that are being offered to people with disabilities to deteriorate.

**Mr Terry Cooke:** That's correct.

**Mr Tilson:** That is the fear that's being expressed because everybody is being lumped in together, when some people require care services and others don't. But because they are being lumped in together, it's feared that for those with disabilities, whether it be because of age or mental incapacity or physical incapacity, those services will deteriorate. That is the fear and, quite frankly, I concur.

One of the other issues that is raised has to do with the issue of—if there are problems in institutions, this word "fast-tracking" appears to have surfaced, although I don't know whether you've canvassed that with your people or whether anyone can even tell us what it means—I know what fast-tracking means, but whether you have thought of a fairer process.

**Mr Terry Cooke:** To be honest, we don't have a response. We've been in consultation with groups like the Advocacy Resource Centre for the Handicapped, which I know was here presenting very recently. I think they have a firmer grasp of the technicalities of fast-tracking than we would.

I simply suggest that our position would be that if you find the need to fast-track for tenancies that become problematic, we believe the distinction between those who can be fast-tracked and those who can't, if you will, shouldn't be based upon disability or the support service they may or may not be contracting for. But I'm not sure I can provide any added clarification on that issue.

**Mr Gary Wilson:** Thanks very much for your presentation. It certainly is reassuring to hear such strong support for Bill 120, especially from somebody who has had the range of experience that your organization has had.

I want to, I guess, develop something that you seem to be suggesting, as someone who has provided in effect delinked services, that you've come in from the community to residents who have an arrangement with the landlord. You find that has worked well, from what you're saying.

We've heard from some presenters who seem concerned, where they provide care services and accommodation, that the provisions provided under both the Rent Control Act and the Landlord and Tenant Act with regard to rent increases, for instance, and evictions will inhibit their ability to provide services to the person or just to provide them a good place to stay. I'm wondering what your comment on that is.

**Mr Terry Cooke:** I think, in essence, we're not reading that into the legislation at this point. We have found that there are two basic streams by which we



provide service. One is an outreach service that is portable and will go into anyone's home virtually anywhere in the province and provide them essential services. The other type that we're specifically talking about today is a service that is linked to a housing unit or a scattered group of housing units, an apartment building or a town house facility.

In our experience over the past dozen years, there are problematic tenancies and we would not be forthright to suggest to this committee that occasionally you don't find yourself in a position in which the service contract is terminated, the person intends to continue occupying the unit and then to some extent it creates some operational inconvenience.

We're just suggesting that those few instances, if you will, don't justify precluding a whole group of people in this province from basic protections. You don't penalize the larger group by virtue of a few difficulties with some selected individuals; I think you manage around those things. We've found on balance that while there are some inconveniences from time to time, they don't in any way merit a broad exclusion from basic protection.

**Mr Gary Wilson:** That's right. That does fit in with our hearings as well. People do suggest that, although the cases can be quite extreme and difficult to deal with, there's no question, as you say, they are relatively few and the number of evictions even have been rare, or small, I should say, and that most places have developed processes to deal with tenants who have problems.

Again, it's not to say that it's an easy issue to deal with but, as you suggest, for the relatively small number of cases that jeopardize the rights to security of tenure and privacy for the vast majority of tenants who are, let's say, very cooperative and are easy to live with, that's a very high price to be paying.

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I'd like to also look at the issue of delinking because, as you know, that is one of the thrusts of the legislation which is in keeping with the movement in this area in a number of directions, I guess given the strongest push by the redirection of long-term care, so that we do have much more flexibility with providing people with the services they need from community-based groups.

There seems to be some confusion here as to whether that is part of the controlled cost of rent, for instance, and in the unlicensed or unregulated care homes that we're moving to protect, that they won't be part of the coverage under rent control. Do you see that as a feasible way? Because we have had some concern that, say, food costs should be included under rent control. I was wondering whether you've thought about that issue.

**Mr Terry Cooke:** Let me speak to both issues that you've raised. The first is to put into some context the number of how many difficult terminations of service might lead to problems associated with landlord and tenant rights. I can tell you that over the past 12 or 13 years we have operated, as we stated earlier, services that extend across the province.

In the case of 24-hour attendant service programs that are in at least 14 different communities in the province,

relatively speaking, when you're serving over 600 individuals, I can tell you that the number of terminations and problem tenancies has been less than a handful. So again, to juxtapose that with the issue of the protection of the broader group of individuals we serve, we don't think it would justify precluding the basic protection.

The second issue, the delinking issue, we've worked very closely with the long-term care ministry and have been involved in the consultations. We support the concept. Even where we are contemplating being landlords as well as service providers, we are suggesting to our board and to our consumers that we clearly separate the rights and responsibilities involved in a service contract for some essential services from those things associated with their housing and basic tenancy protections.

That will be the case. It will be dealt with through two distinct corporations and two distinct service and housing providers, if you will. We want there to be a clear delineation there. We're not an all-service housing and support service provider; it is not a facility, it is a community-based accessible-housing project into which we happen to provide some essential support services in some of the selected units, not all.

**Mr Daigeler:** In your presentation you said, "Without the full protection of tenancy rights, persons with disabilities are placed in a vulnerable position in which they could lose their accessible apartment unit and be forced to live in less appropriate housing." But if I understand right, at the same time you said that you haven't experienced much of a problem.

**Mr Terry Cooke:** That's correct.

**Mr Daigeler:** Why do you think, then, that Bill 120 is needed if there hasn't been a problem so far?

**Mr Terry Cooke:** Can I suggest that in our case we've always recognized the rights of our tenants to full protection under the act and we have distinguished, where we've entered into partnerships with housing providers, that we have the exclusive right of referral for certain units within that building or that complex. The people then sign a full landlord and tenant agreement and we contract separately with them for services. Where we have found it—

**Mr Daigeler:** Could you explain that again? I didn't follow it.

**Mr Terry Cooke:** We play a couple of distinct roles in the 24-hour apartment projects. The standard course is that we would enter into a relationship with a housing provider, a local non-profit, for the exclusive right to refer 14 or 16 or 18 tenants into certain units. They would have special modification features in them and we would deliver into those units 24-hour support services.

**Mr Daigeler:** But that's not a lease or something; that's sort of different.

**Mr Terry Cooke:** It is a service contract with the March of Dimes and it is a landlord and tenant—or a lease agreement with a non-profit or a cooperative landlord.

**Mr Daigeler:** So you do make a lease arrangement with the landlord.



**Mr Terry Cooke:** We have a working relationship that ensures us the exclusive right of referral for certain clients within the building, but they enjoy the full protection presently under the act because they sign a lease and we don't serve as intermediaries between them and their landlords. We're going in to provide 24-hour support service.

If, at the end of the day, our contract for support service breaks down, they have the right to remain in the unit and contract with another service provider or go elsewhere, as is their prerogative. But we don't see their eligibility for our support service as a basis to, in any way, limit their rights to protection under the Landlord and Tenant Act.

**Dr Eaton:** Perhaps I can clarify it a wee bit. What the March of Dimes does is negotiate for certain places and then it provides bodies for those places, but the bodies sign contracts with the landlords directly.

**Mr Daigeler:** As you say, it protects these individuals. They can stay there, even if they no longer provide, like, your care, as it were.

**Dr Eaton:** That's right.

**Mr Terry Cooke:** Your question is, if it's not creating a problem, then why do we care?

**Mr Daigeler:** Right.

**Mr Terry Cooke:** I think the answer would be that we have found, in instances with other community-based support service providers, where they do link the right of tenancy to the eligibility for care, there have been cases where people have been treated rather arbitrarily and have not had the full protection, because at present they are not protected. In other words, you're no longer eligible for support services, your needs have increased to the point where we can't provide for you, therefore, we're going to both withdraw services and move for eviction. We simply think that's unfair.

**Mr Daigeler:** However, don't you think it would be reasonable to expect that the landlord would be quite a bit more hesitant to offer their facilities if they no longer have that assurance that there will in fact be the attendant care service provided by people such as yourself?

**Mr Terry Cooke:** Again, I don't like to answer in two ways for the committee on every question, but we have found that we've been very forthright with landlords and we have gone in and said: "Look, here is the parameter of our coverage, here are your obligations. Your obligations to the people we service will be the same as to anybody else. The procedures for things like eviction will be the same as for anybody else."

There may occasionally be disagreements or eligibility problems in which people are going to be in that unit but have found themselves with a terminated service contract, in which case they'll have to go out and solicit an alternative service provider if they want to continue to live independently. But the landlord hasn't contracted to provide the services. He or she is just providing the basic—

**Mr Daigeler:** My next—

**Mr Terry Cooke:** Wait a minute; let me answer the

second point. You suggested, wouldn't we take a different approach? I can tell you that we aren't—

**Mr Daigeler:** No, no, no, I don't think you understood my question. My question was, wouldn't there be fewer landlords willing to make facilities available if they no longer have the assurance that these tenants will be looked after by somebody such as yourself? If all of a sudden you no longer provide the attendant care, then they could be "stuck" with the tenant and with the health service aspects of that particular tenant.

**Mr Terry Cooke:** I think your ability to negotiate with landlords is based upon a credible and proven track record. If you do effective screening to ensure that the people who are moving into those units are appropriate and can manage in a self-directed program, history has demonstrated that it is very few and far between that in fact those relationships break down. We haven't had any difficulty in finding landlords who will work with us and negotiate the types of agreements we're talking about.

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Furthermore, we've now incorporated our own non-profit housing corporation because in some communities we haven't had the vehicle to develop the specialized types of units we need, and our non-profit housing corporation will be operating on the same basis, hoping to provide a clear distinguishing between landlord and tenant rights and responsibilities and service contract rights and responsibilities. We don't think so, but I can't guarantee that.

**The Chair:** Thank you, Mr Daigeler. I just have one quick question of clarification. The tenancies you're talking about: Are they self-contained units?

**Mr Terry Cooke:** Yes.

**The Chair:** They're all self-contained units. They're not what you might call a group home situation.

**Mr Terry Cooke:** No, they are not, sir.

**The Chair:** Thank you very much for coming.

#### ROOMING HOUSE ACTION GROUP

**Mr Bart Poesiat:** On behalf of the Rooming House Action Group, which is a grass-roots organization of people who live in rooming- and boarding-houses and people who have survived some pretty bad conditions in rooming- and boarding-houses, I'd like to introduce my co-presenters, who will speak first. In the middle is Doreen Boye. Actually, her husband was supposed to speak, but Jerry is kind of sick so Doreen will do the honours to start with. Then Paul Rodgers, on my far right, will take over, and I will say a few words as well. So at this point, Doreen.

**Ms Doreen Boye:** The rooming-house population: In our society's tenant population there exists a large group of people who for far too long have been forced to live in subhuman conditions. These people have had to bear beatings from ruthless landlords and superintendents and have sometimes been literally thrown into the streets in subzero weather and, if they're lucky, a bag of their meagre belongings tossed out after them. These tenants are fed food most of us wouldn't give our pets and sleep on mattresses and between sheets only fit for incineration. They barely exist and pay for this kind of existence in



rent as high as \$500 a month or more. Roomers and boarders range in all different ages, races and abilities, yet as tenants they have one thing in common: They are poor. Although rooming-house tenants finally won protection under the Landlord and Tenant Act, there still remain thousands of other tenants without such rights. Nor has this or any other law been effective in eliminating the squalor and disgusting living conditions many tenants still live and die in in today's society.

It is for these reasons that the Rooming House Action Group, RHAG, was formed in April 1993. A group of rooming-house tenants and two community workers gathered to begin to tackle problems that have been allowed to exist for far too long.

The main purpose of RHAG is to shut down or rehabilitate the worst rooming-houses in Toronto. The action plan consists of four main tasks, the first being the formation of a rating system for rooming-houses. Houses will be systematically exposed for their substandard, crummy conditions and rated accordingly. Secondly, houses that by our standards rate poorly will be pressured by our group and our supporters to be closed down or forced to rehabilitate. For amendments to the Planning Act, see further. Thirdly, we will ensure that tenants be relocated from unsafe and unsuitable rooming-houses to safe and suitable housing. Lastly, and most important, the action plan is to be tenant-driven.

These plans have risen out of a need to effectively address and resolve ongoing tragedies that are hidden behind the dark doors of inhumane property owners and have been all but forgotten by the municipal powers. We are tired of hearing the landlords blame the tenants. We are tired of hearing agencies and city officials tell us there is nowhere to put tenants, so they must stay in these houses and live in these terrible conditions. We think that there are solutions, that there are better ways for people to live, and we are motivated to act towards these ends.

**Mr Paul Rodgers:** Bill 120: What we support. The Rooming House Action Group supports the extension of security of tenure under part IV of the Landlord and Tenant Act to include care facilities. This includes any non-profit housing which provides facilitative management to actual services where the primary function of the establishment is to provide accommodation.

The Rooming House Action Group supports a very narrow definition of rehabilitation or therapeutic establishments as described in Bill 120, and we also support including care homes under the Rent Control Act.

A few words about the fast-track eviction, or temporary removals: The Rooming House Action Group emphatically opposes any amendment or change to the Landlord and Tenant Act or any other act which would allude to a fast-track eviction and/or fast-track removal, also termed temporary removal, for tenants living in shared accommodations. We are glad this has not been included and emphasize our total opposition to this idea.

The inclusion of fast-track removal and/or eviction would create a giant loophole within the act, serving only as a tool of discrimination against the most economically disadvantaged tenants. We reject the idea of stripping tenants of their legal rights under the Landlord and

Tenant Act. We reject the undignified term "hardest-to-house" which many landlords and governments use to term whole sections of this province's population. The criteria for fast-track evictions would be subjective and difficult to arrive at, leaving one's tenants' rights at the whim and imaginative powers of the landlords.

Given the possibility that any form of fast-track eviction could be put in place within the LTA would affect the whole tenant population of the province and remove the level playing field the act originally intended to provide for both landlord and tenant. Landlords can utilize other remedies and pressure governments to provide more effective ones. The Mental Health Act, the Criminal Code and police reform come to mind.

**Mr Poesiat:** Having pointed out what we support, I guess it's my unfortunate task to list the things we oppose.

First of all, the Rooming House Action Group opposes the separation of meals and services from the rent in care homes. As other submissions have pointed out, so there's no point endlessly repeating ourselves, this is a disaster, because that creates a giant loophole. By separating out meals, landlords can raise the costs of meals and thus can raise the rents even though the rents stay stable. This could create economic or "constructive" evictions. Also, it doesn't really level the playing field. It could create a considerable leverage for landlords by raising meals against certain tenants.

#### 1440

The main problem RHAG has with this bill, though, is the question of residential intensification. Having gone as far as legalizing or proposing to legalize apartments in basements, one apartment in a house, there is a whole area out there and there is a whole class of tenants out there who are basically being left out in the cold. We're talking about people, for instance, who live in accommodation in lofts, in good accommodation which is not zoned properly in industrial areas and of course rooming- and boarding-houses that are in areas which are not zoned for rooming- and boarding-houses.

Also, we don't quite understand. If you legalize one apartment in a house, if you have a big house which a landlord might want to convert to a number of apartments, that should be allowed as well.

What we're saying is that by not extending the protection to tenants living in illegally zoned rooming- and boarding-houses, lofts and apartments in commercial areas, the government is discriminating against a whole group of tenants, and what is even worse is that by increasing the powers of municipal inspectors, which this bill does and which in principle is good, by keeping a whole segment outside of the law and illegal, the government is adding insult to injury by putting tenants in illegal units at even greater risk.

The Rooming House Action Group therefore calls upon this government to expand this legislation. They make the following recommendations:

First, permit any number of self-contained units in a house where permitted by existing structure and health and safety standards and minimum floor-space require-



ments under the Ontario Building Code.

We wouldn't want to see substandard housing, but we do want to see quality housing wherever permitted by residential use, because many times the zoning legislation is not on zoning, it's not on land use, it's against a certain class of people.

The other recommendation the Rooming House Action Group makes is to prohibit the exclusion, of course, of rooming- and boarding- and lodging-houses in all residential and mixed-use areas.

We would like to remind you that as far back as 1989, the Ministry of Housing's policy statement on Land Use Planning for Housing did include a recommendation that municipalities should include "zoning provisions to permit rooming-, boarding- and lodging-houses and accessory apartments as of right where there are permitted uses in the official plan."

This bill fails to legislate a large part of this policy, because it doesn't even touch upon the exclusionary zoning and municipal bylaws discriminating against people living in rooming- and boarding-houses. But Bill 120 strengthens the powers of inspection of the municipalities, and this makes the situation worse for tenants living in illegal rooming-houses where tenants have little protection under the Landlord and Tenant Act because of case law that has been established in the landlord and tenant court or in the Ontario court.

The effect of this "residents' rights" law will thus be to drive tenants further underground and create, in a sense, an illegal market of shady rooming-houses where tenants are afraid to complain and where tenants live in desperate conditions, because that sector will not be a legal sector.

Rooming-, boarding- and lodging-houses must be included to allow as-of-right conversion and construction where residential use is permitted and also where residential use is related to other uses by bylaw.

Coupled with the above recommendations, of course, it is obvious that the municipalities must be given effective powers to maintain buildings in compliance with property standards, powers which municipalities mostly lack today or they do have in some very urgent hazard types of situations.

If you don't open up a whole housing sector, which is not yet being opened up by this bill, then you need stronger powers of regulation. The effect of that would be that rather than shutting down living accommodations and dehousing tenants, those powers would enable the municipality to rehabilitate substandard rental housing and preserve affordable housing stock. Therefore, we make the following recommendations and we hope you seriously look at these.

The municipalities must have a mandatory obligation of municipal repair, and this can be done by changing the Planning Act. Bill 120 goes into the Planning Act anyway and it goes into the Municipal Act, so why not go all the way and take care and provide the most basic services to an excluded segment of the most destitute tenants of the population?

Municipalities must be forced to do repairs where

urgent hazards are found and remove tenants from harm's way until the hazards are completely rectified and the municipalities recover costs through taxes or rents. That again would involve amending the Planning Act. It also may involve doing something about the Execution Act, the act that governs collection agencies, in order to collect the rent to pay for the costs for the municipalities.

The priority of housing over zoning infractions must be affirmed, because that has been overturned by case law in court and there is a whole series of cases. If a tenant now lives in an illegally zoned apartment or in a rooming-house, the tenant doesn't have any rights. So if a building is in good shape, it cannot be closed down.

The Landlord and Tenant Act should have precedence over the Planning Act if the bylaws are violated.

Finally, the municipalities should be made parties and become co-respondents in section 94 applications under the Landlord and Tenant Act. That's the section that says it is the obligation of a landlord to keep the premises in a good state of repair and fit for habitation. In this situation, where the municipality has greater powers, the municipality should also be obligated and does become a co-respondent where a tenant takes a landlord to court.

In conclusion, the members of the Rooming House Action Group believe that Bill 120 does not even begin to address the pressing needs of our most vulnerable tenant population. We hope that you seriously consider some of our suggestions to remedy that situation. Thank you.

**Mr Fletcher:** Thank you for your presentation. I'm just going to touch on one issue, and that's fast-track eviction. We've heard from a lot of groups and I'd say it's pretty well split whether or not to have fast-track eviction. What about the troublemaker, the person who is causing a disturbance for the other tenants in the accommodation facility? Get rid of them fast?

**Mr Poesiat:** The landlord and tenant legislation wasn't really designed to deal with that. I assume that you're referring to a situation where perhaps criminal acts are committed. The Criminal Code takes care of that.

**Mr Fletcher:** Not even criminal. I mean, you know, obstruction, anything like that. Just someone who's generally bugging you and making it so that people don't feel as if they're in a healthy situation.

1450

**Mr Poesiat:** We feel the present remedies under the Landlord and Tenant Act are more than adequate in that respect. When a tenant interferes with the enjoyment of the premises of other tenants or the landlord, there is a process in place which does not take months. There is a brief warning period and if the tenant doesn't shape up, the tenant can be effectively evicted. That process is already there. By strengthening that, you basically skew the level playing field that has been created between the rights of the tenant and the rights of the landlord. The landlord would have much greater powers.

I feel horrified to think—and I've seen situations. I should point out that I'm a community legal worker in a landlord and tenant group with Parkdale Legal Services. I'm working with the Rooming House Action Group as



a resource, but I worked in landlord and tenant matters for many, many years as an organizer, and I can assure you that if some tenant begins to complain and if a tenant begins to organize a tenants' association, he's immediately labelled as a troublemaker.

Now the tenant has her or his day in court. Under the fast-track eviction, it would be a very fast process. The problem is, what happens with the criteria? They can be constructively recreated to fit situations where tenants are going to be victimized for reasons that aren't valid reasons at all. That's what we're afraid of.

**Mr Daigeler:** Thank you for your presentation. Just to be clear, for the group that you represent, you don't have clients where there's a care component, or do you? You are strictly a rooming-house advocacy group.

**Mr Poesiat:** No. First of all, the group is a grass-roots organization. It's not incorporated. Except for myself and Deb Phelps, as community workers who are resources—we're not members; we're just basically organizers—the members of the group are from various situations. Perhaps it's better for Doreen to answer.

**Mr Daigeler:** Just to make clear why I'm asking this question, I think one has to distinguish, and it's perhaps difficult if the people come from different environments, because different problems relate to different environments. We have had numerous people coming from what you may call rehab homes, institutions, whatever, and they have argued very strongly that in order to provide the rehab, there has to be a means to remove the people who are endangering the rehabilitation of the other people.

From what I understand from what you are talking about, however, they're simply tenants who on their own may have personally people who are caring for them, with a care perspective, but they are basically tenants. Frankly, in that regard I don't think anybody has argued that they shouldn't be included under the Landlord and Tenant Act. The problem is with the cases where there's that care element and where disruption makes it impossible to provide the care for the other people. That has been the problem. I was just wondering whether you wish to comment.

**Mr Poesiat:** In the brief, the Rooming House Action Group points out that basically we do support the position of the bill on that. That excludes the very strict care facilities that are more like hospital-type, institutional-type situations. That is already included in the bill. But there's a whole shady area out there, and again we should emphasize that we basically support the position of the bill there.

There's a whole area out there where the primary purpose of the establishment is living, with various types of facilitative management where a nurse may come in, whatever, but it really is a place to live. There, the Rooming House Action Group says a tenant is a tenant. You cannot, just because people are psychiatric survivors—and heaven knows how many psychiatric survivors live in total dumps in absolutely terrible situations. But no matter that people need some facilitative management, that people need support services, the type of thing that the Rupert Hotel Coalition's

trying to work at; that doesn't mean that tenant shouldn't have a right, even though it makes it difficult.

I know of situations where there is lots of support. It's very difficult to give support, and people who come from the street and who are living there for a while and have all kinds of problems—personal problems, addiction problems maybe—end up back on the street. The Rooming House Action Group's position is that those organizations that want to go into that business have to deal with that, and not by taking away rights from a certain class of citizen that has already been stigmatized enough.

If you can't take the heat, get out of the kitchen. If an organization says, "We're going to provide housing for street people, for the homeless," and there are problems, we're saying just because they're off the street, that doesn't mean you can say, "Oh, we'll have some special kind of fast-track eviction because these are very difficult people." That is discrimination, and I don't think ultimately it would fly under the Ontario Human Rights Code, and it wouldn't fly under the Charter of Rights and Freedoms if that situation existed and anybody ever took that route.

But we're glad that it isn't in there. The reason RHAG decided to mention it is because there are quite a few organizations which make the point that fast-track evictions or some kind of temporary removal is really necessary. Of course, it was actually a little bit recommended in the Lightman report, although I understand that Dr Lightman is not advocating it any more.

**Mr David Johnson:** I'd like to thank you for your deputation. It's certainly my sense that the people you're speaking for are the people who have been the most abused of the people this bill encompasses, and although some other situations have been described to you in the questioning, they're probably the people who need the protection more than anybody else.

Let me ask you up front: In the rooming- and boarding-houses is your experience that the units are mostly self-contained or not self-contained?

**Mr Poesiat:** Most rooming- and boarding-houses have rooms but many don't have single occupancy. You can get into situations, and I think Doreen and Paul can say a few words about that, where you have four people, four beds, stacked in a room.

**Mr David Johnson:** Would you have a kitchen?

**Mr Poesiat:** The whole house shares one or two kitchens and maybe one or two bathrooms. There are situations in larger rooming-houses where a whole floor has one bathroom and one kitchen.

**Mr David Johnson:** We're unfortunately going to run out of time, but in East York, and I think in most municipalities, in a home you are already allowed, I think, five roomers or boarders.

**Mr Poesiat:** Shared accommodation, yes.

**Mr David Johnson:** Yes, shared accommodations. That's right, and the kind of accommodations you've just described to me are in a sense shared. So to a large degree what you're calling for here is already in existence, I would say.



**Mr Poesiat:** That's a whole interesting area. It's kind of stretching it, but you could take a large rooming-house, like the Rupert Hotel, which I think had about 74 rooms, and you could divide it up into little parcels where four or five people live in a shared accommodation type of situation. Then you could say, "These are all self-contained units with individual shared accommodation, like flat-type situations, so this is not really a rooming-house." Then you would kind of get around the confusing—I'm talking city of Toronto. Then you would get around that. But it would still be a very shady area to do that.

Obviously, smaller situations where you have three people or four people sharing a house is what's meant by shared accommodation. We know of rooming-houses that have 54 units. It's very hard to stretch that point of shared accommodation in those places.

**The Chair:** Thank you very much for appearing before us today. We appreciate your presentation.

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#### AFFORDABLE HOUSING ACTION ASSOCIATION

**Mr Chris Krucker:** I'm Chris Krucker. I work as staff with the Affordable Housing Action Association.

**Ms Tess Moxham:** My name is Tess Moxham. I'm a member of the Affordable Housing Action Association.

**Ms Susan McGrath:** I'm Susan McGrath. I'm president of the board of directors of AHAA.

**Ms Moxham:** Affordable Housing Action Association is a non-profit community-based organization that offers advocacy and housing development services to people in the region of Peel. AHAA was founded in 1988 and incorporated in 1991 as a non-share corporation and governed by the board of directors.

AHAA's mandate is therefore: (1) to give housing information to people who are looking for affordable housing and to advocate on behalf of individuals and families having difficulties within the housing system; (2) to organize the community of people looking for affordable rental and ownership housing, to both create more affordable housing and to work to improve the present delivery of housing; (3) to develop and to build affordable housing living communities, both the physical buildings as well as the community of people who live within these homes.

AHAA attempts to fulfil these mandates through two areas of service: community development and housing development. AHAA has a membership of 350 families, members primarily living in Peel. They are people who are concerned with the lack of affordable housing and are active in working to meet these needs. They represent a large community of Peel residents who are now in housing that is too expensive and inadequate.

Many of the Affordable Housing Action Association members have lived or currently do live in basement apartments. Over a period of a month, half of the members have been meeting on the issue of legalizing basement apartments. Each member has told their story of living in basement apartments and has made recommendations to the panel members. These stories have been documented and incorporated and written into the sub-

mission to the standing committee.

As I mentioned, my name is Tess Moxham and I was asked to speak here on my experiences of living in a basement apartment. I've had the so-called pleasure of living in two separate apartments and I'd like to explain both of these very briefly to you.

The first one was located in Brampton and it was the kind of basement apartment where you had to walk down a full flight of basement stairs. It was very poorly lit and ventilation was very poor. There were only two very small windows, located at the back of the house, which was my living room. Only one of these windows opened and it was so small that even my cat had a hard time getting in and out of it.

My son, who is an asthmatic, suffered from several attacks and was taken to a hospital five times in a period of six months. The last one was the worst, which ended with his being admitted into the hospital for three days. I knew at that time I had to get out and I began looking for a new place. However, being a single mother, my income was that of a low-tax bracket.

After searching for several weeks, I ended up finding my second basement apartment. It was a ground-level entrance, bright, clean, good ventilation and had lots of windows. My experience in this home was a very good one. My son and I became a part of the landlord's family and a part of our community. We were really happy living there. However, this ended in misfortune on December 17, when the house was overcome by flames and our home was destroyed.

My son and I have lost everything. However, we still have our lives. I was told by a fire marshal that had my son and I not been upstairs visiting the landlord's family, this story would have ended a very tragic one. Once again, I am faced with trying to find a home for my son and me. Because our needs are immediate, I have taken some time off work, and in doing so I have now also lost my job.

Affordable housing is very difficult to find, which is why I'm in favour of basement apartments. However, I do believe they should meet certain safety and building codes. Sometimes basement apartments are our only alternatives.

I thank you for taking the time to listen to my stories and I understand that you are faced with a very difficult decision. I praise you for listening to the public's opinion. I would only hope that you have listened to our opinions and that you're making your decisions accordingly. Once again, I thank you for taking the time.

**Mr Frank Henry Etruw:** My name is Frank Henry Etruw. I'm a member of the AHAA group. My experience is in a basement apartment. I lived in basement apartments for three years in North York or Toronto.

In this particular basement apartment, there was no adequate ventilation. I can put it simply: It was like a dungeon down there, because in my room, the particular room I rented, there were no windows in the room. The washroom was so enclosed you couldn't even turn when you were taking a shower. I had to fight day in and day out.



There were lots of combustible materials, such as paints, rags, old newspapers, and above all violation of my privacy. The landlord pops in any time he wants. I sometimes get scared, most often because of the danger of immediate fire. The escape route was nowhere to be found in case of fire. It made me sleep on my couch. For about a month or two months I had to sleep on my couch in case of fire; then I could escape very easily.

Once again, I rented out another basement apartment, this time in Mississauga. This basement apartment was infested with cockroaches. Several times I complained to the landlord, but they seemed to care less or didn't care at all. It looked like they just wanted their money but they didn't care about the welfare of the tenants.

I'm not recommending that basement apartments should be illegalized. I want them to be legalized, but at the same time I want them to be updated for every individual person to get access to live comfortably. Our poverty doesn't mean that we have to live in a slum or uncomfortable situations like those of the apartments I had lived in before.

I'm here to thank AHAA for their strength. They have of course strengthened me and comforted me in all angles. I hope that you will reach a good decision about the basement apartments so that everybody can enjoy, as regular apartment residents, this.

**The Vice-Chair (Mr Ron Eddy):** Thank you very much for your personal witness.

**Ms McGrath:** I'd just like to confirm that we estimate there are 10,000 basement apartments in Mississauga. They're an important source of affordable housing for people on low incomes. We strongly urge that this legislation, in terms of them being legalized, that conditions of safety are essential and that this source of affordable housing be not only legalized but standards set and maintained and available to more people in the community who need it.

**Mr Steven Offer (Mississauga North):** Thank you for your presentation. I'm somewhat aware of the work done by the association. I think you're just on the verge of opening up a very exciting type of new housing development in the city of Mississauga.

My question, I guess, to Tess, is, you've had experience in living in basement apartments, one of which was bad, the other good. Can you share with the committee whether in your opinion, or any of the others, there was a difference in terms of whether the owner occupied the home or not? Have you detected any difference?

**Ms Moxham:** In both the basement apartments I lived in, the owner lived upstairs.

**Mr Offer:** Has that been the experience of yourself?

**Mr Etruw:** Yes, the owner lives upstairs.

**Mr Offer:** One of the first presentations made to this committee was by Fire Chief Cyril Hare of Mississauga. He came with some specific recommendations as to the types of protections that are necessary and that are not either in this bill or part of the laws of this province. Could you share with us whether you support the recommendations for enhanced protection, as suggested by the fire chief?

**Ms McGrath:** I'm not totally aware of his position. The concerns that we have are issues around access that I think he was raising and rights of entry. I think the legislation as such provides for safety standards and that those should be and can be adequate in terms of providing a safe living environment around second exits, window size, these kinds of things that seem to meet the safety needs of families living in basement apartments.

The point here is that the empowerment goes to the tenant. Tenants under this legislation will have the right to assess in terms of what they think is safe or not and then can act on what their assessment is. Certainly we will be working with our membership in promoting, assuming this legislation gets passed, the standards so that people are aware of what they can expect in terms of safety standards.

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**Mr Offer:** Municipalities have come before the committee and have indicated that the legislation, as it's now styled, really does put an impediment to them in terms of their zoning and their planning of the community and all the things that go with that. I'm wondering if you can share with the committee what your reaction is to the positions taken by the municipalities in terms of their responsibility for zoning.

**Ms McGrath:** We've had a full dialogue. Some of our staff met with Mayor McCallion and council yesterday morning and she showed up at our members' meeting last night. There has been a full sharing of the different perspectives around that. We still adhere to our position.

I think we have to look beyond the concerns that are being raised. The reality is that there are 10,000 units already. The second-unit housing exists; it's already there. In terms of suggesting that there are going to be horrendous changes, I think there's some phantom thinking going on here in terms of what people are expecting.

The municipality still retains full rights around zoning. They can control the noise bylaws. They can manage and apply the property standards and assessments. They still have that capacity. I think in terms of concerns, the implication seems to be somehow that people living downstairs in a house are going to be at some greater risk than people living upstairs. In most single-family homes, people often live downstairs now.

This right of an entry and intrusiveness I think is uncalled for. Informed tenants protected by the appropriate legislation can act on their own behalf and will be able to seek recourse if there are problems in their living accommodations.

**Mr Offer:** From your experience, is there any concern with there being no condition to the residence itself having to be owner-occupied?

**Ms McGrath:** I'm not aware of the research showing that there is any shift in terms of a higher incidence of rental housing. I could rent out my house today, if I chose to. If I did, I wouldn't live there, given the current zoning that exists. So if people can rent whole homes, they can rent part of homes. People can choose to be there or not.

To suggest that somehow this is going to become a



greater problem than it is now, there's no research to justify this. I think they're taking anecdotal experiences and suggesting it's going to be greater than it is. The reality is that the 10,000 units are there now. We need to make them legal and deal with the issue as it is now.

**Mr Offer:** There are just a few moments left. I think that there are some provincial numbers that say it's not 10,000. As I also live in Mississauga, we all know that the incidence of people living in basement apartments in the city of Mississauga is much higher than any provincial government ministry report. The fact of the matter is that the realities are that the numbers that the ministry has are just wrong in this respect.

The question I have is in general protections, and I'm sure you've heard these questions before, protection as to the planning in the neighbourhoods, protection as to all of the things that have gone on with respect to this: What is your position with respect to this bill and that concern?

This is what these committee hearings are all about. That's what we've been hearing. I know some of the work that AHAA has done in the city and I'd like to get your reaction to those concerns that we've heard with respect to the parking, with the six cars in the backyard. What do you say to those people?

**Ms McGrath:** They exist. They're there now, and Mississauga hasn't fallen apart. We aren't having major problems other than the density issues that we already have experienced. In terms of parking, the research out of Metro does show that in fact people who are living in basement apartments tend not to have cars. I look around my neighbourhood. I've got a neighbour who has six cars parked on the lot. This is a single-family home. There are no limits.

They suggest that this is going to become a horrendous problem. Again, parking in Mississauga does not seem to be a horrendous problem at the moment. The units are already there. People are already living in them. So where is the parking problem? In Mississauga you're not even allowed to park on the streets at night; you have to have onsite parking and this legislation will provide for that. People will be parking their cars in the driveways.

**Mr Tilson:** Dealing with an issue that Mr Offer raised with respect to numbers of illegal apartments in Mississauga, you've mentioned 10,000 and Mr Offer thinks that may be substantially higher. Looking at what this legislation is going to do, the legislation will legalize the existence of not all of them but many of them.

However, then we start looking at standards, which gets to the issues that you're speaking of when you're speaking of the quality of living. Clearly there will be a large number that will be violating fire codes, property standards bylaws—I'm not aware of Mississauga's property standards bylaws but I would imagine it has property standards bylaws.

Whatever figure we're using, 10,000 or more, how many of those, what percentage of those would you estimate, if you're able to estimate, would still be illegal because of violations of the fire code or because of violations of property standards or health requirements?

**Ms McGrath:** I'm not sure what you're suggesting,

that they will continue to be illegal, that people are not going to try and upgrade their properties and you're trying to respond to these needs?

**Mr Tilson:** The issue that I'm raising is that this legislation, if it passes, will legalize all of these units or a large percentage of these units. What it won't do of course is it won't say you're still going to have to upgrade them. You may have to upgrade a certain number of them for different reasons. I've given fire, I've given property standards, I've given health and there may be others that I can't think of in which inspections will have to be made, fire requirements, changes. Some may not require any changes. Many of them were done makeshift by the property owners who weren't aware of electrical requirements or plumbing requirements or those sorts of things.

Are you able to give any estimate as to what percentage of those units will be illegal in violating those different standards?

**Ms McGrath:** I don't know. It's hard to tell. Tess and Frank have identified one experience each that has been a very bad experience. The expectation would be that the owner of those basement apartments would make some significant changes to improve them. That's what needs to happen. Whether people would choose to do that or not we can't tell.

**Mr Tilson:** But we're trying to solve a problem. We're trying to solve a living conditions problem. The difficulty is going to be that first of all inspections are going to have to be made. Either that or life just goes on; the life, as you've described, goes on. No one does anything about it, so someone's going to have to do something.

Unless the landlords do it voluntarily, and I don't imagine they would because, good heavens, there are all these illegal apartments, the tenant is going to have to take action, or someone's going to have to take action, because most municipalities simply don't have the staff to go and inspect every home or every dwelling in their municipality.

1520

I'm really looking for a comment as to how this next stage is going to be realistically solved, because the next stage is going to be municipalities coming and saying, "We don't have the resources to inspect or to adjudicate, to take people to court to close places down," and, worse yet, it could result in that people who now have accommodation won't have any accommodation. I'm looking for your comment on the next step, assuming this legislation passes.

**Ms McGrath:** I think there are several points you're raising. My understanding of what the municipalities are proposing now is that it would already require a tremendous and intensive assessment. They want to examine, go in and license, so they are already anticipating a huge staffing cost that they haven't got in terms of what they seem to be proposing. They seem to think they're going to have some staffing resources.

**Mr Tilson:** For sure.

**Ms McGrath:** The onus here will be on the tenant.



What our members have been talking about is that they're prepared to work with the landlord. Those who have good relationships with their landlords can work cooperatively, "How do you we make this work better?" It's in both their best interests to make it safe with not a huge cost increase, how they can best do this.

Bringing someone in to actually do an assessment, if you're going to bring the property standards officers in, that could be done by anybody at any time and they could then initiate that. I think the first step, though, they want to work with the landlords in terms of, "These are the standards." They will now have some standards, they will have a legal background if they aren't resolved and they would like to be able to work with that landlord in getting it resolved and cleaned up.

**Mr Tilson:** Some of the conditions that—

**The Vice-Chair:** Mr Tilson, I think Mr Johnson wanted to ask a question. Quickly, please.

**Mr David Johnson:** Just to follow up a little bit on that, the concern that municipalities have, again, is that they will not be able to get in to inspect. This morning we heard from the Association of Municipalities of Ontario, which represents some 700 municipalities on this particular issue, it says, of some 800-odd municipalities across Ontario.

Their brief is that they should be allowed to plan for accessory apartments in terms of what fits into their community. They will not have the right of entry, and consequently as a municipality they will not be able to guarantee the safety of the people living in that basement apartment or in that flat because they simply won't have the right of entry to get in to ensure that the apartment is safe.

You've talked about the empowerment of tenants.

**The Vice-Chair:** Could you make it quick, please.

**Mr David Johnson:** To wrap it up then, their experience has been that tenants don't come forward and they're speculating that even once this bill is passed, tenants won't come forward and this will still leave tenants at risk and it'll put municipalities in a very legally delicate position. I wonder what your comments would be on that.

**Ms McGrath:** The municipalities resent provincial intrusion into what they see as their area of business. That's a fundamental political issue that's never going to get satisfactorily resolved. They had their opportunity to provide affordable housing. They didn't take advantage of that opportunity. Clearly there needs to be provincial intervention in order to provide this. This is a strategy that can and will work. It's legalizing a situation that is already there.

I think the municipalities still have significant responsibility around management, around land use planning. They still have bylaws that are in place now that they can apply. If I'm disruptive in my neighbourhood, my neighbours can call. They have legislation which they can use. The assumption is that there's going to be a whole lot more disruption, which I don't think is at all founded, it has not been substantiated, and which I think is a phantom kind of proposal that municipalities are raising.

Because it's a political football they don't like it.

**Mr David Johnson:** I bet you didn't convince Hazel.

**Mr Mammoliti:** It's a very good point that you raise when you say that the municipality had the option, when we talked about affordable housing, especially in Mississauga. I remember quite clearly the debate that took place two and a half years ago, I believe, between the minister and your mayor over this issue. I want to thank you for bringing that up and putting it on record.

Earlier I think both of you talked about a bad experience that you had in basement apartments. I can't remember what you said in terms of the landlord living onsite, or was it an absentee landlord? If you can answer that question first.

**Mr Etruw:** He was living onsite.

**Ms Moxham:** Both of which I lived in lived onsite.

**Mr Mammoliti:** Lived onsite, and they were still bad experiences, were they? The reason I ask this question is because mayors like the mayor of Mississauga and my own mayor of North York have come forward and have very clearly said that it's better if the landlords live onsite and that we should do something about the absentee landlords. In this particular case, actually two cases, I think they speak for themselves. I think the message is quite clear that even when the landlords live onsite there could be potential problems.

However, that doesn't mean we don't need to address the safety concerns that you're talking about. I'm not sure if you want to elaborate at all on what specific things you'd like to see addressed in terms of safety for basement apartments, but that's my second question. I'm sorry I had to take so long.

**Ms Moxham:** I personally would like to see some type of exit, whether it be two separate doors, a window that can pop out, whatever it is, but there have to be two exits. A lot of times your front entrance is up the stairway or beside the furnace room or whatever it is and that's what's going to go first and then you're left with nothing to get out.

**Mr Owens:** I'll make my comments quick.

**Mr Etruw:** I wanted to give an answer to that. I want to talk about something. Mr Johnson made a comment as to whether to empower the tenants to come forward to complain to the authorities. We met the Mississauga mayor last night and such a question was raised. She said the government has no right to go to the landlord just to go in to inspect the condition of the basement apartment. This was my question, if it was right to pose a threat or an obstacle in the way of the government officials to inspect the basement apartment when a human's life is at stake, because it is our experience. Who wants to answer?

**Mr Owens:** I just want to thank the group for their presentation. I represent a riding in southern Scarborough which is probably not too much different in terms of Mississauga with respect to its housing needs. People still need a warm place to live and rain not falling on them, whether they're in Scarborough or Mississauga.

Our experience has been similar. The province attempted to let the politicians do their thing. In Scar-

borough it has been 10 years, and now we're still being accused of imposing our will on the people. But I think what we're doing is legislating reality and giving tenants a means to a remedy if in fact they're living in substandard conditions, and I appreciate your comments today.

**Mr Gary Wilson:** Thank you very much for coming forward with your presentation. Especially the personal testimony is so useful in helping us draft the legislation to make sure it does meet the needs of the tenants. I want to say, contrary to a couple of things you've heard here, that in fact we are making it safer, making provisions in the legislation and through regulations to make sure that the problems having to do with fire safety are met.

1530

We certainly have the testimony of the acting fire marshal that they've been part of the process that has looked at the draft regulations. In the presentation yesterday they said, "We believe the accessory apartment draft regulations will play a significant role in addressing the unacceptable fire losses in residential buildings in Ontario."

If these things are being worked on to make sure that the provisions are there, that tenants can come forward to say that their places aren't safe—and they can work with the landlords, because we've also heard that many landlords have a stake in providing good housing as well. They not only are I think happy to see people housed affordably, but they also receive income, which suits their needs as well.

It isn't a question if it is going to be necessarily an adversarial relationship between tenants and landlords. Once they're made legal, that threat of action by the municipality is removed and you can work together to bring it up to standard, which can often be very inexpensive. Maybe a smoke alarm will do it. The fire separations are often inexpensive as well. It isn't as though we're looking at huge costs here to make it decent, affordable housing.

Again, I want to thank you. Have we got a moment for a response?

**The Vice-Chair:** Do you want to respond?

**Mr Krucker:** We've had some experience where landlords have come and enlisted our support in cases where the municipalities wanted to shut their unit down, and we've also had landlords and tenants come together wanting to figure out a way that they can have a legal apartment or have some security in that situation. We would like to see it be a working relationship, not an adversarial role, definitely.

**The Vice-Chair:** Unfortunately, we'll have to conclude your presentation. We thank you for being here, and certainly your comments will be taken into account as we look at clause-by-clause in two weeks.

RENT CHECK CREDIT BUREAU

**Mr Glenn Rumbell:** Thank you for seeing us today. My name is Glenn Rumbell. I'm president of the Rent Check Credit Bureau. To my right is Allistair Trent. Allistair works with our company, and he spends a lot of time representing landlords in Ontario courts. He's going to be speaking to you primarily today.

**Mr Allistair Trent:** As stated, my name is Allistair Trent. I'm from Rent Check Credit Bureau, a division of Communix Corp. Rent Check Credit Bureau is a 20-year-old organization that was originally founded by a lawyer, an accountant who had practices in the residential property management area.

We function as an association for landlords, and we also have two business or commercial functions. The first of those would be consumer reporting, and our function in that capacity is pursuant to a bulk file inspection contract with the Ministry of the Attorney General. We collect information from landlord and tenant court applications throughout Ontario and store them in a data bank. Landlords then access that data bank for the purposes of assessing whether a tenant has a habitual history of non-payment of rent or creating problems for other tenants or their landlords, drugs, violence or other eviction problems relating to their tenancy.

The bureau's position is that Bill 120's introduction at this time would be premature without looking at the entire legislative framework or the systemic realities and the practicalities of enforcing people's rights within that legislative framework.

Our position is that the existing laws were devised with the concept of envisioning a large corporate landlord and balancing the power of that landlord by providing tenants with a great deal of rights and systems and that when the large corporate landlord is substituted by the small landlord who is trying to finance a home, the balance of power shifts markedly to the tenant's favour.

Again, it's our concern that Bill 120 would encourage people to become small home owner landlords and would thereby bring them into a current system that is, first, overburdened by overload and incapacitated and is also ill equipped and designed to address the realities of the relationship between a home owner and a tenant living under the same roof.

In our presentation, the first page is a survey that we have conducted from our own data collection and then confirmed with the Ministry of the Attorney General of the number of court applications filed in Metro Toronto court under the Landlord and Tenant Act from the period of 1988 to 1993 inclusive.

It shows that in 1988, prior to the recession, there were 11,900 applications filed in total; as of 1992 that had ballooned to 18,516, or an almost 65% increase, and in 1993 dropped slightly to 17,716. However, this third quarter has remained unabated from the 1992 level.

In addition to this, under the social contract there has been reduced staffing at the court, which has caused further problems in processing applications. The delays that this results in have particularly destructive effects on landlords who would seek to become accessory apartment landlords, for a number of reasons. The delays, when they concern unpaid rent and evictions for non-payment of rent, affect small landlords far more greatly than large landlords, for obvious reasons.

If you are a small home owner trying to pay the mortgage, a \$500-cash-flow-a-month impediment by the tenant not paying rent combined with the legal fees of



having to evict the tenant is a considerable burden and in some cases has forced some of our clients to lose their homes; whereas for large landlords, obviously a corporate landlord is unaffected by the cash-flow problem of \$500 a month from some tenant who isn't paying rent out of the hundreds that one would have.

The more pressing problem is that when people live in the same house together and become involved in litigation and landlord and tenant disputes, these disputes tend to become extremely exacerbated and ugly and expensive for the landlords. At the same time the landlord and tenant have to continue to cohabit while they're going to court and the landlord attempting to essentially evict the tenant or the tenant asserting some right against the landlord.

I've attached to my exhibits two cases that we had test-released to the media last year to see what public reaction would be. Both of them ended up on the front page of the Saturday paper. The first one concerns an illegal basement apartment in the borough of East York.

First of all, I'd like to dispel the myth that basement apartment tenants are not covered by the Landlord and Tenant Act. There is extensive authority to indicate the simple fact that the Planning Act does not vacate the tenants' rights under the Landlord and Tenant Act. In fact, this is a startling example of such a case.

In this particular case a tenant moved into the basement of a client of ours and immediately after moving in became late and eventually did not pay any rent. When the landlord attempted to collect the rent, the tenant phoned the police and erroneously said that the landlord had tried to break into her house for the purpose of collecting the rent. Those charges were dismissed without trial as being absolutely unfounded.

The landlord, after losing \$1,300 of rent by the time they got to court, successfully did gain an eviction order against the tenant. The tenant then countersued the landlord for an abatement of rent on the basis of her apartment being illegal and that was dismissed as an abuse of the process of the court.

The fundamental problem with all this is that while the tenant may have been evicted, the landlady, who was renting out her basement to support her child in university, lost some \$1,500 rent and also had \$5,000 worth of legal fees in defending both the criminal and civil actions and prosecuting the eviction action to rid herself of the tenant. Of course, if the proposition that tenants had no protection in illegal basement apartments was correct, she could have literally put the tenant out on the street. However, that is not the case.

The following page directly gets to the point of our argument and it's entitled "So You Want To Be A Landlord." It warns people who would seek to become small landlords against doing so without having a full apprehension of the laws and regulations concerning landlord and tenant issues in their province.

In this instance, some tenants moved into commercial premises under the guise that they were going to use them for business purposes and, once there, immediately said they were residential tenants and that they weren't

paying any rent and they were suing the landlord unless they got \$10,000. Luckily, this landlord did have the money for a fight and he decided to evict the tenants. It took him a year and a half to do so; 17 days in various provincial and superior courts and a total of over \$25,000 in legal fees.

Our position is not that there is this problem with the laws as they exist with relation to landlords and tenants or evicting tenants speedily. The current laws, as they exist, provide basically for a seven-day period to rectify offensive behaviour or a 15-day period to pay the rent. Four clear days after that, one may appear before court and obtain an eviction order.

The reality is with the amount of backlog in the system, four clear months would be a better estimate of the time it takes to evict somebody in the case of a contested matter. The proposition that someone can have a tenant out within a month or two, if they haven't paid the rent and the tenant puts up a fight, is simply not a reality from my view working within the court system.

Our primary suggestion as to how to go about improving that and to improve the access to justice for all landlords and tenants is basically to eliminate the duplication and the concurrence of jurisdiction within the courts themselves. The majority of contested matters that occur in the General Division, which is a superior court and is charged with matters such as eviction or severe states of disrepair and such, do not concern any serious issues and really concern tenants claiming some monetary damage as a result of their apartment being in disrepair after they've left, or issues that could be dealt with either in the inexpensive and informal forum set up by the Small Claims Court or in the Ministry of Housing.

For example, a \$1,200 dispute in the Small Claims Court, which is less than a third of its jurisdiction, can be dealt with without the need of counsel, without the need of legal aid, at far less public expense by simply the tenant or the landlord filling out a form and submitting it and having a summary hearing in an equity court. However, when these disputes are tried in the General Division—I have here one of the pleadings from a \$1,200 dispute that didn't involve possession where the tenants had already moved out.

It's simply my submission that to try these cases in the General Division and to allow people to seek minor monetary relief that's available elsewhere ties up the court—this case took four days to litigate—and it prevents people from bringing forward their legitimate disputes and getting them adjudicated in an expedient manner.

#### 1540

Another example of how the current policy is unsuited to landlords is found on the last page of my exhibits, which is a procedures manual directive from the Human Rights Commission. This manual directive properly addresses the issue of discrimination, and we don't advocate discrimination by small landlords, or anyone else for that matter. However, the rough justice or the shotgun approach that is employed by this procedures manual deprives landlords, particularly small landlords, requisite information, important information that's not



discriminatory when it's properly and responsibly used.

This procedures manual would seem to say the only acceptable criteria in electing whether to accept or reject tenants would be whether or not they could provide first and last months' rent and it would specifically exclude such criteria as minimum income rental history, credit rating and references and the use of the guarantor.

First of all, as I've already stated, the provision of one month's rent is not sufficient security in the case of a legal dispute erupting because, on balance, it takes a great deal longer than that, in the Toronto court system at any rate.

Secondly, I'd like to ask the committee, if they were in the position of a small landlord and Ms Nicholson, who was the East York tenant, applied to you as a tenant, would you not expect to have the right and want to know that Ms Nicholson, as appears from this article, has not paid rent in five years and has been evicted from every premises that she has ever lived in.

Thirdly, if you lived in a house with your children and you were contemplating taking on a tenant, would you not want to be apprised of the fact that the potential tenant you had might have been evicted for running a crack house or engaging in violent activity or a number of other problems that may seriously affect the relationship.

This policy directive and all the foregoing are examples of how the law doesn't protect people who would hope to benefit from this legislation. I've heard many submissions from advocates of basement apartments who submitted: Allow people who wish to buy a home to more easily afford one and to use the rental income to support it. But the harsh reality of the situation is that it's a very, very high stakes game of Russian roulette and that just—not just as likely, but there's a very high possibility that you may expect \$500 a month and end up with not one red cent and \$2,000 worth of legal fees to evict a problem tenant.

Basically, our position is that the laws as they're currently formulated are very well designed to protect tenants against bad landlords. Bad landlords can't go anywhere. If a tenant is successful, the landlord owns the property and can look to it. They do nothing to protect landlords against tenants, such as the two examples I've cited here, who would seek to abuse their rights.

The primary purpose of our submission here is that we believe the court should be freed up to deal with serious issues, and then we don't need fast-track evictions, we don't need all this special legislation covering various groups. When people have rights, they can get to a court and enforce them and not be hindered by people tying up the court with frivolous matters and abuses of its process.

**Mr Rumbell:** I'd just like to reinforce that our central point is not that this legislation—in effect, that it's legalizing the basement apartment—isn't a needed piece of legislation. I think having them with their illegal status isn't a great state of affairs either. Rather dealing with that one issue without dealing with the other issue at the same time is not an effective way of properly resolving the problem.

What you would be doing is sending a signal to small home owners, people trying to buy a house, that it's all right to have a basement apartment. Many of those people either don't inform themselves about their obligations as landlords, or even if they do, they don't give proper weight to the consequences of being a landlord and then find themselves involved in a system which is set up to protect an impoverished tenant or a tenant without economic resources against a landlord that is a corporation and has tens of thousands of units and a legal action is simply a cost of doing business. That's what the legislation now is formulated to address. It's not formulated to address an individual home owner with very slight economic resources.

**Mr Tilson:** Thank you for your presentation. It certainly puts another slant on the problem, and I guess you're right: There are all kinds of problems in landlord and tenant law that have probably existed for a considerable period of time, probably through three different governments. I don't think the finger can be pointed at any one government, quite frankly.

You look at the issue of why there were no apartment buildings being built by private enterprise in the last four or five years, or few apartment buildings being constructed. Why are there no or few legal accessory units being constructed? One of the reasons is the story that you have just told us, that it's very difficult to be a landlord. You have just hammered that home, that if you get into the landlord business, you'd better know what you're doing or you could end up like Mrs Paleopanos, which is just a horror story. In fact, it's remarkable. I'd heard about this before you'd come to these hearings.

Is your message really that the whole issue should be reviewed? I mean, the whole issue of landlord and tenant law or the whole ball of wax should be reviewed, that this is not going to solve the problems of the conditions of tenants or the conditions of landlords?

**Mr Trent:** That would be exactly our position, that the whole landlord and tenant relationship was formulated at a time that's markedly different from now. The systems that have developed as a result of the relationship and social policy have also been developed totally in favour of the tenant.

For example, there are numerous legal aid clinics all over the city that help tenants and they provide full-service representation, the same as if they went to a law firm. There is one clinic funded by the legal aid plan for landlords. They will only help landlords who literally are on the verge of bankruptcy, and all they will do is give you a brochure for \$25 that you can go in and represent yourself and take on legal aid lawyers with this type of documentation and hope for the best.

The bottom line is that small landlords, if they're going to be small landlords and brought into, as you admit, a tough situation of being a landlord, have to be given some type of equal access to the justice system and some type of system where they can inexpensively ascertain and assert their rights without being subjected to the same standard as the large corporate landlord with all his attendant resources.

**Mr Tilson:** We have had legal clinic after legal clinic



come to these hearings and make presentations, and very few of them act for landlords, if any.

**Mr Rumbell:** None.

**Mr Tilson:** They're all for tenants. The question I have is, with this new legislation—

**Mr Owens:** Is that a startling discovery?

**Mr Tilson:** You're going to get your turn.

**Mr Owens:** Good.

**Mr Tilson:** The problem with this legislation is that we're now going to have a whole new class of landlords who won't be the big, bad landlords that the NDP has painted. They will be average people who are trying to pay their rent or like the woman who's trying to assist her daughter or son, whoever it was, going through university.

The question I have is, should a government provide equal assistance to the new breed of landlord, new legal assistance to stickhandle their way through the myriad rules that have been created by different governments?

**Mr Trent:** Yes, we believe they should with respect to the serious issues, such as standards of repair and safety and maintenance. We believe that with respect to minor disputes, it would be a saving to the public purse in respect of both the court system and the legal aid system to relegate those to the jurisdictions where the legislators set up a specific forum for people to go without counsel and inexpensively and quickly adjudicate their legal rights. When there's \$300 at stake, I really don't see the need for four days in a superior court with counsel to adjudicate those type of concerns.

1550

**Mr Rumbell:** Small Claims Court.

**Mr Trent:** Yes, Small Claims Court or the Ministry of Housing.

**Mr Tilson:** How this legislation all got started, of course, was the sexist term of "granny flats." We're now going to have senior citizens who are going to be trying to sustain their house because of the cost of living. It cries out for what you're speaking for.

**Mr Owens:** I want to thank you for your presentation. It was crisp and to the point. I appreciate your comments with respect to not necessarily needing a fast-track eviction process. Now, we may have different reasons for agreeing that fast-track evictions are not on, but I appreciate the point that we do have a process now and what we should be taking a look at is how to resource that process. In terms of looking at alternative dispute resolution methods rather than, as you say, attending at court for four days, I think it is a reasonable request.

We've seen the tenants from hell. We know that there are landlords from hell, and I recall this case quite clearly. In terms of the—

**Mr Daigeler:** This is getting pretty devilish.

**Mr Owens:** And there are also MPPs who come from hell.

**Mr Daigeler:** Speak for yourself.

**Mr Owens:** The question I've been asking groups on a repeated basis is, how do we have this kind of conjoint

educational effort so it's not just the tenants who are being informed of their rights? I subscribe to the view that not all landlords are out there trying to gouge, kill and screw their tenants, so we need to have a conjoint process to educate both parties as to what their rights and their responsibilities are. This doesn't mean there's no responsibility.

**Mr Rumbell:** I think our point is that education is not just the answer to the landlord, because even if you inform a small landlord going in that there is a Landlord and Tenant Act and have him read it, that's not really getting at the problem.

The problem is the fact that the courts are enormously backlogged and that people can literally lose four or five months worth of rental income, possibly thousands of dollars, while they're enforcing their rights that you're asking them to be aware of. That's really the problem that we see existing and that this legislation, if it passes, will only exacerbate, because it's encouraging more people to take on these apartments.

**Mr Owens:** On the other hand, you can't make legislation based on worst-case scenarios. This person definitely was a problem, to say the least, and it caused a lot of discomfort to the family that was involved. But in terms of the protection of the greater group, I think I would want to have those kinds of processes in place.

**Mr Rumbell:** But they're already in place. The tenant in an illegal apartment currently would have access to the courts under the Landlord and Tenant Act.

**Mr Owens:** Right.

**Mr Rumbell:** It's rather the signal that is being sent to other people to invite them into the system, which is a big concern. You're sending that out at a time when the whole system is overloaded.

**Mr Trent:** I would also like to respond to that by saying, when you speak of education, the current education system in place for tenants is legal clinics. Legal clinics are run by lawyers, and this—

**Mr Owens:** But there are landlord self-help organizations out there as well.

**Mr Trent:** There is one in Ontario, and it has no staff lawyer. The way that tenants are educated are within the adversarial system. That's the way the courts work. There is no effort to try to mete things out or educate people and work out a deal. If you go and ask for assistance, you get a trial and you go to court and fight it out between the two of you.

**Mr Owens:** I'm not sure that legal clinics are always wanting to encourage litigation. The clinics that I've been involved with clearly are more into the settlement mode. It doesn't help the system by forcing people into court, and if there's a way to discuss with the tenant or the landlord to come to a mutually agreeable resolution, then they play that role as well. I don't think they're just out there forcing people into court. It doesn't do their workloads any good either.

**Mr Rumbell:** No, I don't think we're saying the legal clinics are necessarily out there just trying to bash the landlords and fill the courts with dockets. That's not what we're saying. But the reality is that for a tenant to go to

a legal aid clinic, if the lawyer perceives a triable issue, that issue will be pursued at no cost to the tenant. The landlord may be in a similar cash-flow crunch, and just responding to the tenant will incur thousands of dollars.

I can tell you, every week in our office we see instances where something will be appealed, where the process will be used, and the landlord is saying: "I just can't afford this any more. Why can't I have access to legal aid? Why can the tenant proceed in this matter?"

**Mr Daigeler:** I certainly appreciate your presentation, because frankly, even though we've had four weeks of hearings, this is a new perspective that you've brought to these procedures and I appreciate what you're saying. Nevertheless, I'm wondering whether you have any specific comments on basement apartments and making them legal. In view of your experience with landlords, is it going to be a big problem for the landlords that you've been dealing with if we have this Bill 120, or is it not? Do you have any kind of comment on that?

**Mr Trent:** As I say, the applicable legislation in our view, and we've upheld in the courts, is that it does apply to illegal basement apartments that are already in existence. One cannot say that the apartment's illegal and that makes the entire contract void. That's an antiquated view of contract law, in our view and in the view of the courts.

From the current perspective, the tenants who are there already do have the protection of the Landlord and Tenant Act, and I can certainly say, from having probably one of the biggest practices in Toronto in landlord and tenant, that there is no shortage of tenants who live in illegal basement apartments who come forward to try and assert their rights.

**Mr Daigeler:** Are they successful?

**Mr Trent:** Oh, by all means. The Paleopanos case that everyone refers to was in respect to an illegally zoned basement apartment. Theoretically if I had adopted the position it was illegal, I simply would have gone and pleaded that the contract was void and she had no rights and I could put her out on the street. However, that's not a correct view of the law as it currently exists. Basement apartment tenants cannot be put out on the street; they cannot be forced into uninhabitable conditions.

They are fearful of calling the zoning department to enforce the repair and maintenance standards because the municipal departments will say it's an illegal apartment and make the landlord close it down. But the courts aren't the people who are doing that, and their rights under the Landlord and Tenant Act aren't vacated and their rights as they relate to their landlord are unaffected. It's the rights as they relate between them and the municipality that are the problem.

**Mr Daigeler:** Again, because you seem to have such extensive experience with landlords, do you think that most of the landlords who presently have illegal apartments because of zoning restrictions are going to convert to legal status, make the necessary safety and health adjustments?

**Mr Trent:** A great many of the people who have illegal basement apartments literally do not know that it's illegal to do so. The ones who do, I would imagine,

would convert. Maybe it's because our organization isn't attractive to these types of people, but I have yet to see any of these landlords I've heard about who have just horrible, squalid living conditions with six people living in their basement or anything like that. Frankly, the clients that I've dealt with on illegal basement apartments in fact would like to make them legal.

**The Chair:** Thank you for coming, gentlemen.

1600

#### JESSIE'S CENTRE FOR TEENAGERS

**The Chair:** Good afternoon. Welcome to the committee. The committee has allocated 15 minutes for your presentation. You can use that as you wish. You should begin by introducing yourself and your colleagues for the purposes of our electronic Hansard recording.

**Ms Debra Phelps:** My name is Debra Phelps. I am here to use my time to introduce to you Maureen Callaghan, a housing coordinator from Jessie's, and three teenagers who use Jessie's services. They are, to my right, Nadine, Rachel and Christine. I'm going to hand the portion of my time over to these people who are going to talk about their experiences in basement apartments and apartments in houses.

**Ms Rachel Garrick:** My name is Rachel Garrick and I'm 15 years old. I arrived in Toronto two years ago with my family. My family then moved to Vancouver and I stayed with my boyfriend and his family. I'm presently living in Massey Centre, which is a maternity home, and my baby is due on February 25.

Because of my age, I'm not eligible for welfare right now, but my boyfriend is eligible for student welfare. When we began our search for housing, we found that most of the places available to us were apartments in houses.

I plan to move out of Massey Centre when my baby is born and I'd like to know that if there was something wrong, like the heat wasn't working, I could call an inspector to fix that, because I feel housing is a right and not a privilege.

**Ms Nadine Banton:** I'm not quite a teenager. I'm 22 years old. I have been on my own since I was 16 years old. I was in high school at the time when I moved out on my own and I have lived in basement apartments. I do know what it's like to look for other apartments than basement apartments, but at the time, because of my financial situation—I was on student assistance—I couldn't afford a condominium or anything else, so I ended up having to go for what's best in terms of my income.

I've found subsidized housing now. I've only been in subsidized housing for three years now. Before that it's all been basement apartments. I have two kids. I don't see why basement apartments shouldn't be legalized. Sometimes when I was in a basement apartment, I didn't feel I had a right to complain, because if I do, I would be kicked out, and if I don't, I would have to put up with certain things that are not covered under the bill of rights. I do think, like she says, that housing is a right and it's not a privilege. Thank you.

**Ms Christine Johnson:** My name is Christine



Johnson. I'm a young mother of a six-month-old son. This is my son, Jamal. I am presently living in a basement apartment with my son and my common-law husband, Mohammed. The apartment I'm living in is a basement apartment. It's a two-bedroom. The apartment I'm living in isn't completely underground; the windows are on ground level. The apartment itself is self-contained. I have two exits, a laundry room and a front lawn. I pay \$800 rent plus hydro. I am presently on a very low income. I and my husband are on welfare assistance.

I have lived in a total of five apartments since I have been on my own, four of which have been basement apartments. I have never been in a really high income bracket considering I have never had a whole lot of education, so I've never had a really good job.

I think basement apartments should be legalized. There are too many low-income families being taken advantage of. There are illegal basement apartments right now, some of which do not have adequate heating or insulation etc, being rented to unsuspecting low-income families who have no other place to go and who can't afford to move. These people are not being protected by our government.

As long as basement apartments are maintained, we need the apartments. Even though we are on a low income, we deserve to live in any part of the city we want, not just an area designated to us, such as Toronto minus Rosedale, without being discriminated against. We should be protected. Thank you.

**Mr Owens:** I'd like to thank you for your presentation this afternoon. While the advocacy groups have worked quite hard in terms of their level of support for the bill, I think it's always impressive for the committee to see the consumers, the tenants who are living in basement apartments, and to hear about the real-life concerns of tenants, especially tenants such as young moms and families who need a place that's safe and comfortable. I appreciate your taking the time to come here today and I certainly hope we can speed this stuff through for your families. Thank you.

**Mr Fletcher:** Thank you for your presentation. I'm just wondering, if Bill 120 goes through as is, do you feel that the requirements as far as building codes, fire safety regulations, which are going to be in the regs and everything, are going to take a weight off your mind when it comes to the safety of living in an apartment in a house?

**Ms Garrick:** Definitely, yes.

**Mr Fletcher:** We have heard from other groups about something called fast-track eviction, the right to evict people fast if they're a problem. How do you feel about that? That's for anyone.

**Ms Garrick:** That's really unfair, and I don't think that landlords have the right to do that. That's why if I was going to rent an apartment, I'd like to know that it's legal so that I was protected against that.

**Ms Banton:** In terms of renting a basement apartment or any other for that matter, I don't feel that they should have less right being in a basement apartment than any other apartment, a condominium or anywhere else for that matter. If they are in a basement apartment and they're not covered, I don't think somebody else who's in a flat

or anything else should be covered more than the person who's in a basement apartment. When people rent basement apartments, it's usually because they can't afford the one above them or the one above that. I would think in terms of rights and privileges, I think all the way they should get it.

**Mr Mills:** Thank you for coming. I was interested in your remark that you pay \$800 for a basement apartment with hydro.

**Ms Christine Johnson:** Yes, I do.

**Mr Mills:** I've been looking for an apartment myself for the last couple of weeks, and I can tell you that around here I've run into a lot of them at less than that. Are you trying to tell me that folks who've got these apartments with lesser rent discriminate against you because you're a young mother with a child? Is that fitted into it?

**Ms Christine Johnson:** Yes. We're designated to live outside of Toronto. We cannot live in downtown Toronto.

**Mr Mills:** Why not?

**Ms Christine Johnson:** Because of the fact that basement apartments are only legalized in certain areas.

**Mr Mills:** No, no. There are regular apartments available.

**Ms Christine Johnson:** I understand that, but I mean Rosedale, they're not legal there. Why? I'm not saying I'm paying a low amount of rent, I'm not, but I have a very huge apartment. Just to let you know, I have a very large apartment. I have two very large bedrooms, where I fit a very large bed as well as a crib in my room.

**Mr Offer:** Thank you for your presentation. I think it's important to hear the experiences of many people in this area. I have a question based on your personal experience as to whether there is a difference in the basement apartment if the owner does or does not live in the other portion of the house.

**Ms Banton:** Your question is if it's different?

**Mr Offer:** Owner-occupied.

**Ms Banton:** If the person lives there, if it's different?

**Mr Offer:** Yes.

**Ms Banton:** I would think not. It doesn't matter if the person lives there or not. Basically if it's a house, which it usually is if it's a basement, the whole house would usually be rented, the top, the middle and the basement. You're living there and it's an apartment, just like a regular apartment building. Owners don't live there, there's only a landlord and superintendent. So it shouldn't make a difference whether or not they live there.

**Mr Offer:** The next question that I'd like to ask you on this matter is—it's not on the fast-track eviction. I think that's going to be for another day. I'd like to get your reaction to this: Many people, primarily municipalities, have come and said the legalization of basement apartments takes away from municipalities the opportunity for them to control their neighbourhoods in terms of the amount of people, in terms of the amount of cars, and a whole variety of other things. I'd like to get your response to that position.

**Ms Christine Johnson:** Why should they be able to control who lives where? This is a free country. We should be able to live wherever we want. I don't think it's fair for municipalities to say where we can and cannot live because we are low-income, because we can't afford regular apartments. Like I said, I do pay a very high rent in a basement apartment, but most apartments are lower than other apartments in buildings or houses or whatever. I don't think it's fair for municipalities to be able to say who lives where.

**Mr Mammoliti:** Hear, hear.

**Mr Offer:** I understand that. I think I know what the municipalities would say to that.

I want to thank you very much for your presentation and for the response to the question. As you know, through the committee process, we receive an awful lot of different positions and it is important I think for us as committee members to ask what is your response to another's position. It allows us to better appreciate the bill and what it actually means. So I thank you for those responses.

**Mr Tilson:** Thank you for coming and telling us your personal stories. I'd like you to tell me a little bit about the types of basement apartments that you live in.

One of the purposes of the legislation is not only to provide more housing accommodation but also to provide better accommodation. We've had different people from fire departments and municipalities come and talk about what's going to be required.

For example, units must be separated by types of walls for fire separation; there must be smoke alarm systems or sprinkler systems; means of egress to the outside—in other words, if there's a fire, there's a clear exit to the exterior, particularly from basement apartments. A lot of basement apartments have been built or constructed in a makeshift fashion and there may be inadequate electrical construction or inadequate plumbing construction.

Looking at the various units that you've stayed in or lived in, can you tell us about the quality of the type of basement apartments that you're in or have been in?

**Ms Banton:** Mr Tilson, my experience of being in a basement apartment is that, like I said, I was young and couldn't afford much. People are living in basement apartments and they are not covered under regular rights. Therefore, if they do speak up on these issues, like you said, a fire hazard or whatever the case might be, electrical problems or whatever, the point that I'm trying to make is, people are living in there whether they're legal or not.

If these people were to get them legalized, I don't see a problem with the owner finding funding to better suit these apartments to rent them in the first place, instead of people being forced to be in them because they can't afford much or they're not covered. Say they're living in a basement apartment and bring the landlord to court or whatever because there's not an exit or door or it's a fire hazard, they're not covered under the bill of rights.

**Mr Tilson:** I understand all that. What I'm trying to determine is the quality of existing illegal basement apartments. I now have before me three people who have

lived in or are living in basement apartments. What I'm trying to find out is, what is the quality of existing basement apartments, legal or illegal, in the province of Ontario?

**Ms Banton:** They're very good quality as far as I'm concerned.

**Mr Tilson:** All of you can say that?

**Ms Christine Johnson:** I live in a basement apartment. In my hallway, I have two exits, as I said. Both exits are exits for everybody. We have sprinkler systems.

**Mr Tilson:** Exits for everybody?

**Ms Christine Johnson:** There are three apartments in the building. It's a semibuilding, semihouse, but like I said, it is a basement. There are two exits for every apartment.

**Mr Tilson:** Each apartment has an exit for the outside?

**Ms Christine Johnson:** Each apartment. We have the same main exit, but we all have doors on the front and on the side. The house is separated. It's just completely detached. I have smoke detectors in every one of my bedrooms, every one of my rooms, in my kitchen. The walls are fire-resistant; they're very hard walls. I think if they are legalized, if they rent them out, they're obligated to do this, they're obligated to make them. I think that's the point she was trying to make, that they're obligated to make them like that.

**Mr Tilson:** Thank you very much for coming and telling us your story.

**The Chair:** Thank you. We appreciated your coming before the committee today.

ROB HOOD

**The Chair:** The next presentation will come from Mr Hood. Mr Hood, please come to the table.

**Mr Daigeler:** Is it proper? I would like to move a motion. Do you want to do that?

**The Chair:** Perhaps it would be more appropriate to wait till Mr Hood is finished his presentation. He has 15 minutes and then we could deal with it. I have no way of turning down the motion, but I think it would be more appropriate that you make it later.

Good afternoon, Mr Hood. We appreciate your taking the time to come down and see us. The committee has allocated 15 minutes for your presentation. You should begin by reintroducing yourself for the purposes of Hansard and then you may begin.

**Mr Rob Hood:** Good afternoon. Thank you for inviting me. My name's Rob Hood. I live in a house in the east end of the city which is managed by Ecuhome Corp. As you probably know, Ecuhome strives to provide affordable, safe and secure accommodation.

I first came in contact with Ecuhome about two years ago when, after a period of illness, I was unable to work for some time and was very much in need of affordable and safe housing. I was interviewed by the current residents in the home and was accepted as a member of the household.

Initially, things went well and we lived cooperatively and comfortably. However, it came to my attention that



one of the other residents was a recovering alcoholic and periodically he went on binges. When that happened, he caused great distress to the other members of the household when he would come home late at night and cause upset and noise and, on a couple of occasions, destruction of property in the house, and generally made a real nuisance of himself. From time to time he'd be accompanied by other people and in the morning there would be a great mess: beer bottles, cigarette butts, general disruption in the home.

The other residents and myself approached him and suggested that he give some concern to the needs of other people in the house. He gave us assurances that his behaviour would change, but it didn't really have any lasting effect because very quickly he returned to the same kind of behaviour.

At that point we asked the Ecuhome staff to get involved and they spoke with him and gave him a verbal warning that if this behaviour continued he would face some consequences. One evening he came home, was particularly disruptive and got into a fight with one of the other residents. The police were called, but they were really unable to do very much because the other resident was unable or unwilling to press any charges.

He received a further warning at that point from the Ecuhome staff. The final straw was when he, I guess, exhausted all his available funds and stole a VCR, which was my property in the house and was there to be shared with the others. He sold it to obtain funds to buy more alcohol.

At that point, Ecuhome stepped in and terminated his residency with the complete support and encouragement of the other residents in the house. It had become intolerable, the violence, the threats of violence, the disruption to the safety and security of the others. We simply could not continue to live with it.

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My point on this is that to restrict the right of Ecuhome to remove someone for violent or threatening behaviour would violate one of the basic principles of the organization, which is to provide safe and secure housing. If he had been allowed to remain, the other residents become the victims. He can simply sit there and we can do absolutely nothing about it.

The normal disciplinary approach that is followed is one of progressive discipline, of verbal warnings followed by a written warning which may lead to termination of residency. It's not an arbitrary process and it's applied only with just cause. Residents are well aware of this process when they come into the home and they know the consequences of behaviour which repeatedly violates the terms of residency. Further, even after a decision to terminate a residency is made, the resident has the right of appeal to an independent committee.

If Ecuhome were to come under the provisions of the Landlord and Tenant Act, I would strongly encourage you to find some way to permit them to still move ahead with a prompt termination of a residency where the behaviour clearly warrants it. To do otherwise would place the remaining residents in an untenable position.

That's all I have to say.

**The Chair:** Thank you for coming. We have questions, I'm sure, beginning with the official opposition.

**Mr Daigeler:** I think that's fine. I think it's pretty clear what you said.

**The Chair:** Then the third party, as they say.

**Mr David Johnson:** It certainly is very clear and we have heard this message before. It's one that I hope we're all listening to because obviously programs such as the one at Ecuhome are very valuable programs and we shouldn't be putting in place mechanisms that make it more difficult to have those kinds of programs. I guess having that one disruptive person—as you've indicated, you went through a progressive series of stages involving the other residents there.

**Mr Hood:** The residents get together and discuss the problem and then approach the offending resident to try and resolve the problem within the home. If we are unable to do so, we ask for assistance from the staff.

**Mr David Johnson:** So as you've said, this is not an arbitrary process.

**Mr Hood:** I don't believe so.

**Mr David Johnson:** But somehow you have to deal with these kinds of problems. I wasn't quite clear. There have been various suggestions as to how to deal with it. One is an exemption from the Landlord and Tenant Act. Second would be a fast track, I guess. A third may be a temporary relocation; I'm not sure if that's partly to do with a fast track or not. What is your view on what would be the appropriate mechanism?

**Mr Hood:** I'm not completely familiar with those options, but I think it has to be something which provides immediate action and not something which allows the resident simply to sit in the house to wait for due process.

**Mr David Johnson:** The Landlord and Tenant Act, as we've heard earlier this afternoon, where it's contested can take a good four months, and I've heard longer periods than that. I suppose a process that takes four months would put many of the other residents under a lot of duress.

**Mr Hood:** It would be extremely difficult.

**Mr David Johnson:** We've heard that in other situations sometimes the other residents actually leave, and that's the unfortunate outcome. The fast-track mechanism would speed up the Landlord and Tenant Act. One deputant I think indicated that perhaps in the vicinity of two weeks might be workable.

**Mr Hood:** That could certainly respond to most situations.

**Mr Tilson:** Just a brief question on the existing process: Is it working? Are people who perhaps shouldn't be here accepting that or are they demanding that their rights are being violated?

**Mr Hood:** To the best of my knowledge the vast majority are accepting of the process. As I mentioned, if they feel they have been unfairly dealt with, they do have the right of appeal to an independent committee.

**Mr Tilson:** So, to date, it has worked.

**Mr Hood:** I believe so.

**Mr Gary Wilson:** We often hear this theme about listening and they suggested that we all want to be listening to this. I think it's showing that Mr Tilson is listening because he did raise a question of how often does this happen and whether the process is working. You seem to think it doesn't happen all that often, and when it does the process works, for the most part. So really Bill 120, which brings in provisions of the Landlord and Tenant Act to provide protection, wouldn't affect very many people. Would you agree with that?

**Mr Hood:** Yes. I don't think it would affect very many people but it could have a very damaging effect on those who do require removal and those who are forced to remain in the house while that process is under way.

**Mr Gary Wilson:** That's right. But the other thing is, though, what we're hearing from other people who get nervous about fast-track evictions is the lack of an objective appeal process. Of course it can be abused, and you probably recognize that as well, especially for vulnerable people who have problems of many sorts, and to add to them the risk of losing their tenancy or even just having their privacy violated is not a good situation.

**Mr Hood:** Yes.

**Mr Gary Wilson:** Another thing about the fast-track eviction, it's very hard to come up with a process that really does respond in a way that is much better than what is there now, because there is of course the possibility, especially in a home like Ecuhome, where somebody is there to receive help, that they would recognize it's not working and would agree to leave.

**Mr Hood:** That happens also, yes.

**Mr Gary Wilson:** So this is what we're grappling with, of course, and I really appreciate your coming forward to give us this view. I think, from your submission and your answers to the questions, you are aware too of all the implications that we're looking at here: the need to balance the rights of the group with those of the individual.

**Mr Hood:** Yes, I think the protection needs to be there for those who require it but, as was mentioned earlier, it would be a shame to impede a program that is already working quite well.

**Mr Gary Wilson:** What about where problems do arise, addiction problems, say? If there were more community support, are you satisfied with the amount of community support you could turn to when emergencies arise?

**Mr Hood:** I think the programs are there. I know that Ecuhome staff would be more than willing to provide referrals for individuals who require that type of help. So I'm not sure that providing more community support is what's really needed. I think protection for those who require it is what is needed.

**The Chair:** Thank you, Mr Hood, for coming to see us today. We appreciated your taking the time to come down and talk to the members about this issue.

**Mr Hood:** Thank you for the opportunity.

**Mr Daigeler:** I'd like to move a motion. In view of

the fact that we have not heard from the Ministry of Health and the Ministry of Community and Social Services, at least I understand you have not heard from them in response to your letter, and since there have been many, many questions raised with regard to the views of the Ministry of Health on the impact of Bill 120 on rehab, for lack of a better word, houses or homes—

**The Chair:** Mr Daigeler, before you make the argument maybe I could understand what the motion is.

**Mr Daigeler:** Okay, I'll put the motion then. In view of all of what I've just said, I move that the committee meet on Monday, March 7, in the afternoon, for the purpose of hearing from the Ministry of Health and the Ministry of Community and Social Services regarding the impact of Bill 120.

**The Chair:** Mr Daigeler has made a motion. Do you wish to speak to your motion, Mr Daigeler?

**Mr Daigeler:** I think I started giving the rationale for the motion. I think it would be proper on that Monday afternoon at least to give an opportunity to officials from the Ministry of Health and the Ministry of Community and Social Services to come before the committee and speak to us about their view, how the provisions of Bill 120 will impact on their clients and the groups that they're funding and in particular on the rehab programs that they're funding.

**The Chair:** Thank you. Mr Fletcher and Mr Mammoliti.

**Mr Mammoliti:** Thank you, Mr Chair—

**Mr Fletcher:** He said "Mr Fletcher."

**Mr Mammoliti:** No, he said "Mammoliti."

**The Chair:** I said Mr Fletcher and then Mr Mammoliti.

**Mr Mammoliti:** Oh, I'm sorry.

**Mr Fletcher:** May I hear that motion, please? I didn't quite catch the gist of it.

**The Chair:** It says, "I move that the committee meet on Monday, March 7, in the afternoon, for the purposes of hearing from the Ministry of Health and the Ministry of Community and Social Services."

**Mr Fletcher:** Oh, what for?

**Interjection:** He's put the question.

**Mr Fletcher:** I'm asking the mover a question. I just want a response.

**Mr Daigeler:** I explained it already. In fact in my oral comments I did say for the purpose of hearing on Bill 120. But if it's not clear enough to you—

**Mr Fletcher:** Okay. It's ministry people?

**The Chair:** That's what it says.

**Mr Fletcher:** It sounds okay.

**Mr Mammoliti:** I'm wondering whether we can make a friendly amendment to that and perhaps add a time: early in the afternoon, 1 o'clock. Would that be okay?

**The Chair:** Mr Mammoliti is just suggesting that you put a time on it, Mr Daigeler.

**Mr Daigeler:** To start at 1 o'clock instead of 2. Is that what you're saying?



**Mr Mammoliti:** We can hear from them in the early afternoon. From what I can see of the motion, it just says "the afternoon of." If we can be a little more specific and perhaps say 1 o'clock.

**Mr Daigeler:** Starting at 1 o'clock? I have no problem starting at 1 o'clock.

**The Chair:** I'll take that as a friendly amendment.

**Mr Daigeler:** But most likely we'll take the whole afternoon.

**Mr Mammoliti:** It most likely won't?

**Mr Daigeler:** It most likely will, but I'm not here to say that.

**Mr Offer:** Can I have a copy of this Hansard?

**The Chair:** I would like one too, Mr Offer.

**Mr Mammoliti:** No, we don't see any problem with it. We're okay with it.

**The Chair:** Mr Owens also indicated he wished to speak.

**Mr Owens:** I was just going to say simply that I gather the consensus is that it's not an issue but let's have the folks in early or start a little bit early and get whatever answers are eluding the members opposite, get them on the table and then let's move into clause-by-clause.

**Mr Fletcher:** It sounds good to me.

**The Chair:** Further discussion? If not, shall Mr Daigeler's motion carry? Carried.

Before everyone runs, I have a couple of announcements. We would appreciate, and the committee clerk especially would appreciate, amendments with regard to Bill 120 to be in the clerk's office March 1, if that's possible. That provides all parties with an opportunity to peruse the amendments.

I would remind members that public hearings on Bill 95, Mr Mammoliti's private member's bill, commence next Monday at 1.

The committee adjourned at 1633.





## STANDING COMMITTEE ON GENERAL GOVERNMENT

**\*Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

Dadamo, George (Windsor-Sandwich ND)

**\*Fletcher, Derek** (Guelph ND)

Grandmaître, Bernard (Ottawa East/-Est L)

**\*Johnson, David** (Don Mills PC)

**\*Mammoliti, George** (Yorkview ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

Wessenger, Paul (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Miclash, Frank (Kenora L) for Mr Sorbara

Mills, Gordon (Durham East/-Est ND) for Mr Morrow

Offer, Steven (Mississauga North/-Nord L) for Mr Grandmaître

Owens, Stephen (Scarborough Centre ND) for Mr Wessenger

Tilson, David (Dufferin-Peel PC) for Mr Arnott

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr White

### **Also taking part / Autres participants et participantes:**

Cordiano, Joseph (Lawrence L)

Marland, Margaret (Mississauga South/-Sud PC)

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Luski, Lorraine, research officer, Legislative Research Service

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## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Monday 14 February 1994

# Journal des débats (Hansard)

Lundi 14 février 1994

## Standing committee on general government

City of North York Act  
(Vital Services), 1993

## Comité permanent des affaires gouvernementales

Loi de 1993 sur la Cité de North York  
(services essentiels)



Chair: Michael A. Brown  
Clerk: Franco Carrozza

Président : Michael A. Brown  
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Monday 14 February 1994

The committee met at 1307 in the Humber Room, Macdonald Block, Toronto.

CITY OF NORTH YORK ACT (VITAL SERVICES), 1993

LOI DE 1993 SUR LA CITÉ DE NORTH YORK  
(SERVICES ESSENTIELS)

Consideration of Bill 95, An Act to provide for the passing of vital services by-laws by the City of North York / Projet de loi 95, Loi prévoyant l'adoption par la cité de North York de règlements municipaux relatifs aux services essentiels.

**The Chair (Mr Michael A. Brown):** The business of the committee this afternoon is to deal with public deputations in regard to Bill 95.

OAKDALE ACRES RATEPAYERS ASSOCIATION

**The Chair:** The first presentation will come from the Oakdale Acres Ratepayers Association. Good afternoon. The committee has allocated 20 minutes for your presentation. You can use that time as you wish, either to just make the presentation or to provide some time for questions and answers. Introduce yourself, state your position within the organization and then you may begin.

**Mr Steve Pitt:** Members of the committee, my name is Steve Pitt. I am president of the Oakdale Acres Ratepayers Association. I represent a coalition of other ratepayer associations in the area. I have two other ratepayer presidents here today. They're sitting behind me. They're both from the Jane and Finch area. I'm from the Jane and Wilson area. We're all members of the community of Yorkview in western North York.

I'm here representing this coalition of ratepayer groups from North York that support Bill 95. Although Bill 95 is obviously written with apartment tenants and landlords in mind, apartments tend to be surrounded by single-family dwellings. Very often, the population of one large apartment building matches or outnumbers the combined population of the local home owners. We shop at the same stores. We use the same community services. Therefore, the health and welfare of our local apartment dwellers directly affects the nature of our community.

After studying Bill 95 for the past few months and discussing it between ratepayer associations, we wish to go on record as saying that we like what we see. To us, it is inconceivable that basic human necessities such as heat, hot water, electricity and fuel are not already considered vital services.

But Bill 95 is not quite finished. We would like to see two important amendments added. We believe that security and garbage disposal should also be included as vital services.

As you are no doubt aware, for the past two years the Metropolitan Toronto Housing Authority has upgraded the security of many of its larger apartment complexes. These improvements have included security cameras, enhanced lighting and copyproof key systems for the lobby and individual units.

As home owners, we have found that improved security for apartment buildings is also good for the surrounding community. Without security, apartment lobbies can become home base for drug pushers, prostitutes, purse snatchers and other undesirables. This criminal element naturally spills out into the surrounding community.

Since MTHA improved its security system, the surrounding communities have seen a dramatic reduction in neighbourhood crime. In the Jane and Finch area, for example, Metro's 31 Division reports that crime has been slashed by 40%.

The unfortunate thing is that this crime does not disappear; it only relocates to other apartment buildings where the landlord has not bothered to install adequate security. Security, therefore, must become a designated vital service. What use is a well-heated and well-lit apartment if the tenants take their lives in their own hands every time they enter or leave their apartment building?

I would now like to speak to you of the garbage issue. Irresponsible garbage disposal is another source of friction between apartment buildings and local home owners. As neighbours to large apartment complexes, private home owners are often victims of loose garbage blowing on to their properties. There have also been instances of smells, cockroaches and even rats coming from large, overflowing containers of uncollected garbage. Under the present bylaw system, it can take weeks or even months before a landlord can be compelled to clean up this mess.

Besides being unsightly, accumulation of garbage is dangerous both from a hygiene and a fire safety point of view. Once again the fault lies not with the tenants but with the landlords, who under the present set of laws cannot be compelled to keep their properties adequately clean.

Finally, I would like to point out that even though Bill 95 was designed for apartment buildings, many of the provisions can also be used to safeguard owners and tenants of private residences. With the housing market currently in recession, a substantial portion of any community's private homes is now rentals. Some absentee landlords view their properties not as homes but as business opportunities.

The result is that although some rental houses are kept clean and safe, others become havens for criminal activities popularly known as "crack houses." Along with drugs come prostitutes and other crime. Once again our current bylaw enforcement system is inadequate to deal with the crisis. The character of a street or even an entire neighbourhood can be ruined by one greedy landlord.

It is for these reasons then that we now ask you to support Bill 95. We also ask that Bill 95 be amended to include security and garbage collection as vital services.

**Mr Hans Daigeler (Nepean):** It's a little bit difficult

to jump from Bill 120, which we've been studying over the last four weeks, to this particular bill. Nevertheless, I would like to ask you first of all, not being that familiar with your situation, how much of a problem is this really in your area? How often does it happen that the vital services get disconnected?

**Mr Pitt:** Are you talking of the apartments or—

**Mr Daigeler:** Yes.

**Mr Pitt:** In reference to which issue, sir? Do you mean garbage, security?

**Mr Daigeler:** No, I mean to all the vital services. First of all, the way you just defined it in the bill, has it really happened that often? I understand there's been an incident recently and perhaps that's what brought all this to the fore, but how often does it occur in your area that vital services such as water and heat are not provided by the landlord?

**Mr Pitt:** Speaking as a private home owner who hasn't had the water cut off to my own house, I can't say that it happens much in regard to home owners—I'm a ratepayer president, sir. But I have known where people are renting their houses, and if the landlord falls in arrears to the utility company, as the ratepayer president, I get a knock on the door saying: "Excuse me, sir, we don't have any gas. What's wrong?" Then we have to sort out what's happened.

From my own personal experience, it's only happened once in three years for a single-family unit, but I understand this does happen for larger apartment services, like a landlord in charge of an entire apartment block failing to pay his bills and then you've got hundreds, maybe thousands of people. In this weather you're talking not just inconvenience; you're talking a health hazard.

Speaking as a home owner, I'm more inclined to be worried about the security provided in apartment buildings. Our neighbourhood at Jane and Wilson has four very large apartment complexes along Chalkfarm Drive and we had a tremendous problem with drugs and prostitutes, and it was all because the lobbies were being used as home bases for drug pushers. Until the proper security systems were put into these units, my neighbourhood was being impacted quite dramatically, especially just like a wave effect. People right next to the building were getting the worst of it, people a couple streets away were getting a lesser degree, but the entire community was being affected for safety.

**Mr David Turnbull (York Mills):** The question I would like to ask first is, do you believe it would be appropriate that this kind of legislation be available to all municipalities in the province?

**Mr Pitt:** I can only speak from, let's say, an urban point of view. I don't know if this would work in Grey-Simcoe, where it's more like a family-type operation. I can't see somebody owning a building where hundreds of people might be living in Grey-Simcoe.

**Mr Turnbull:** But in providing vital services to the tenants, the size of the building really doesn't matter. The question is, should it be available to all municipalities?

**Mr Pitt:** It should be made available, yes.

**Mr Turnbull:** I believe that to be the case.

Just moving on to the question of security and garbage collection, clearly garbage collection is a health question which should be adequately covered by the current rent. But when you start talking about security you infer that there will be new costs incurred, perhaps in replacing locks and providing video systems. Who would you see paying for that?

**Mr Pitt:** I think the landlord would have to put it down as part of the maintenance of the building.

**Mr Turnbull:** But you understand that there are rent controls, and capital costs cannot be recovered, other than within a very narrow band, by the landlord. I'm not unsympathetic to what you're saying; I'm just trying to explore how we handle this. When tenants take a unit, they take it without the video cameras and with the existing locks. If you move this cost of new security measures to them—this is a new service that they have above and beyond that at which they took the place—would it not be reasonable to expect the tenants to pay, on an amortized basis over a period of time, the cost of providing that new service?

**Mr Pitt:** To be honest, because I'm not an expert on how much it will cost, you might want to address it to our tenants' association person. Many landlords regularly apply for the 10% maximum and get it for such incidental repairs as painting their buildings and all that. I can't see any problem.

**Mr Turnbull:** Let me assure you they can't do that now. The maximum they can get is a very small amount over the present annual rate that is set. That could easily be taken up in the course of a year by a leaky roof or something like that. I'm saying there are some landlords who could quite easily afford this, but there are many other landlords who are choking to death at the moment. This might just put them over the edge, if you're putting new costs on.

I'm sympathetic to it. I emphasize that, but it's a question of how you pay for it if the landlord doesn't have the money to do it. If this is extra security which the tenants are going to get the benefit of, wouldn't it be reasonable to have that as an extra amount that would be chargeable back to the tenants over the amortized life of these measures?

1320

**Mr Pitt:** I can say that I'm not unsympathetic to the landlord who has to pay for this. I agree that it's a business and I don't want to put anybody under. At the same time, I think it's also a business of providing something essential. As we frame the law, what I'm asking you to do is to try to frame it so that nobody will go under at the same time these services are provided, because to me security is every bit as essential, as I've said, as being able to turn on my light or get some hot water.

**Mr Turnbull:** Sure, okay.

**Mr George Mammoliti (Yorkview):** The previous person who just asked you questions talks about rent control and that perhaps being a negative factor in landlords not providing for that service, and that being an



obstacle. I think he would know that landlords under the current rent control system would be eligible for 3% increases for three years, for a total of 9% increases to tenants' rents, if applied for and if accepted by rent control. I don't see this being an obstacle at all, David.

**Mr Turnbull:** Excuse me, George. Can I clarify what was said, just to help you with this? Can I just clarify what I was saying? I mentioned that if a landlord has to repair such things as roofs or underground garages or anything of a major nature, the 3% isn't even a drop in the bucket, so if you have those expenses, then you have no money left over.

**Mr Mammoliti:** If you go into some of these buildings, and I understand you have in the past, you will note that if there isn't security around, and quite frankly I would agree at this point with some of the arguments in amending the bill to include security, and there isn't proper security in buildings, things like windows get broken on an everyday basis and landlords are having to fix that on a regular daily and weekly thing, as well as vandalism and graffiti and that sort of thing to lobbies and entranceways. Again, in speaking to some individuals, they would tell me this is the case.

In your experience—I know that you're a ratepayer president—have you seen this type of scenario, this type of example where security hasn't been there, and because it hasn't been there, windows and doors and graffiti have been problems to lobbies and entranceways? Has that been an experience?

**Mr Pitt:** I would say most definitely. I'm familiar with a lot of buildings along Jane Street, and if you can pull the door open without a passkey, I can guarantee what you're going to find on the inside. It's just a horrendous mess such as graffiti, broken windows and people loitering. As a 200-pound, middle-aged male, I feel threatened enough walking into some of these buildings. I can imagine what it must be for females or elderly people. It is just a horrendous show and it's almost directly connected to that lack of a decent lock on the front door, because anybody can go in there and there's no security—they've chased them out—and there's no accountability.

**Mr Mammoliti:** Do you think in the long run it might even save landlords money to install proper security systems when it comes to this sort of thing?

**Mr Pitt:** I can't see how it could not, just because once again, the wear and tear on these lobbies is incredible from these people who don't belong there.

**Mr Mammoliti:** So in essence it's an investment as opposed to an expenditure.

**Mr Pitt:** Most definitely. You see the home owner who takes care of the little things on their house and the house stays, where if you just let something go and let people walk through your house, it's going to degrade very quickly.

**Mr Mammoliti:** What about garbage? You talked a little bit about amending it to include garbage removal. What type of garbage would be the experience of ratepayers? There's all kinds of garbage.

**Mr Pitt:** You name it. I've seen everything from it

looking like somebody just cleaned out their living room by throwing it off the balcony to personal garbage. Condoms have been a big problem in my neighbourhood. When the prostitutes were using lobbies and the surrounding area, we used to have problems with condoms. It would start off in their parking lot and be blowing on to our properties. You can literally almost see the garbage start at the apartment, but by the next day it's moved 50 yards towards you. It's almost like a creeping mass.

Who do you call to clean up used condoms? That was one of the problems I went through two years ago when somebody complained that they were getting a flood of these things, 10 to 12 a day, on their property. I can tell you that right now there is no bylaw—no North York, no Metro, no federal level of government—that's responsible for the cleaning up of these. The only person I can hold accountable is an apartment landlord because, quite frankly, if it was one of my fellow home owners who had this problem on his property, I think the onus would be on him to maintain the property properly. I don't see why, just because somebody happens to own 300 units instead of one house, they should be exempt.

**The Chair:** We appreciate your presentation.

2600 FINCH AVENUE WEST TENANTS ASSOCIATION

**Mr David MacKinnon:** My name is David MacKinnon and I am here representing the tenants association of 2600 Finch Avenue West in Weston. I thank you for this opportunity to speak here this afternoon.

I appear here today as the president of our building's tenants association. This proposed legislation, Bill 95, should provide the teeth necessary to bite into the sloppy and uncaring attitudes of some shoddy landlords. Now, understand that I am not referring to landlords who care for and maintain their buildings. The good landlords for the most part are in touch with the concerns of their tenants and take care of their buildings. Bill 95 will affect those referred to as, if I may use a borrowed expression here, the slumlords.

The reference is pertaining to the manner in which some landlords abuse their position and neglect their buildings, which adversely affects the living conditions of their tenants. Bill 95 addresses the basic necessities required by all tenants who live in this climate. Only the unscrupulous practices of the slumlords need to worry about being held accountable by Bill 95.

The building in which I am currently living is owned by one of these so-called slumlords. A general cry is echoed throughout the building about the decline in the appearance of the building as well as the overall lack of maintenance. Yet still they collect the rents, still they do not do any repairs, and as we found out recently, they are not paying the bills.

In January of this year, 1994, a notice of discontinuance of service was issued by Consumers' Gas due to default of payment. Their records show that the gas payment was two months in arrears. There is a deep concern among the building's population that this same type of situation could arise again. Bill 95 is the precise act that needs to be in place just to deal with the very situation that had taken place in our building.



I have listed on the next page six points from Bill 95 that we as the tenants association feel are important to tenants. I've listed what they are and why I feel they are beneficial.

In the definition of "vital services," which are usually included in a person's rent, are:

(1) A gas supply, which for a lot of these buildings is used to provide heat, assures that honest, rent-paying tenants will have sufficient heat to maintain their comfort on a yearly basis.

(2) Security, I realize, is being amended to be included in the act. We feel it is an issue that is more acute now than ever before. Tenants should have the right to feel safe and secure within the parameters of their dwelling, in the parking areas as well as the hallways. These areas come under the landlord's responsibilities. In most buildings, this responsibility requires closer attention.

(3) Hydro: There again, this is a service that's vital to everyone. Electricity runs almost all our daily appliances, which most of us would be lost without. The foremost consideration should be the safety factor. Without electricity, you lose the use of lights, elevators, and sometimes fire prevention systems.

1330

(4) This now brings me to garbage, which we feel should be included as a vital service. While the concern for garbage is an expanding problem involving everybody, it's time to approach this as a vital service. We as tenants strongly believe the landlord should take a more active role in providing a cleaner atmosphere for the tenants and the neighbourhood.

Garbage seen heaped on the ground or blowing across the lawn is unhealthy as well as unsightly. This promotes an uncaring attitude on behalf of the landlord, especially if it's perceived by the tenants that they don't feel concerned enough to have it cleared away on a more regular basis. They wouldn't do it at their homes. Why should they do it at ours? North York is a clean city. This bill should help ensure that the future of this city will remain clean.

(5) Essential services: Precluding shutdown for repairs or shutdown due to fire, a tenant should expect to have heat, hot water, cold water and lights on a constant basis, providing the tenant has paid the rent.

Bill 95 bylaws will stipulate what a landlord's responsibilities are in respect to vital services. This is beneficial to the landlord and the tenant. The bill informs the landlord of his duty to provide a service; also the tenant of his use of these vital services. Bill 95 should create a more responsible landlord and a better informed tenant.

Bylaw compliance: Who is liable for complying with the bylaws? The benefits from that will show that it targets the negligent landlord, and I emphasize that, who takes advantage of a less educated tenant.

We feel a clause for the city to inspect a building for compliance on a vital service is important because an inspection of a vital service by an official could prove to be beneficial to tenant and landlord to resolve any dispute arising from this act.

A provision for the city to reclaim from the landlord

any moneys paid out by the city in reinstating any of the vital services would be beneficial. Should the city have to pay to have a vital service resumed at a dwelling of its taxpayers due to the fault of the landlord, the landlord would owe the city. It should not fall on the tenants, who have been paying rent in good faith, to find themselves in a position such as this. It may cause landlords to reconsider their actions, knowing that they will have to repay moneys to the city. No businessman is keen on an out-of-pocket expense he can't recover.

The tenant safety clause: If the vital services are interrupted but then resumed by an official and arranged for by the city, Bill 95 will be beneficial in that it's good for the honest, rent-paying tenant who through no fault of his own has his vital services discontinued. Should the city intervene to arrange for the vital service, it is reassuring to know that your service will be reinstated. The tenant would pay to the city any amounts for the service, which is I guess prorated: So much of a person's rent is to be allocated to cover those bills.

Bill 95 will provide some protection to the tenant against the landlord interrupting the supply of vital services in an effort to persuade the tenant to vacate the dwelling. As tenants, our point-blank view of assessment is this: Bill 95 will protect honest, rent-paying tenants from those landlords who disregard the welfare of their tenants by ceasing to provide all vital services or by having caused suspension of those vital services.

**Mr Turnbull:** Mr MacKinnon, thank you very much. As I think you probably heard me asking the last presenter, do you feel it would be appropriate if we were to take this all across the province? I brought in, by the way, an almost identical bill, a private member's bill, but it was to apply to all municipalities in the province. It is what is known as "permissive legislation," which would allow those municipalities which felt they needed the legislation to pass a bylaw. They wouldn't have to have that bylaw, but at least they would have permission from the province to do this so that they could quickly address tenant concerns.

My concern about this is that it's only for North York, and there are other municipalities that have these problems where tenants are not being protected. Do you believe it would be more appropriate to have this amended so that it applied to the whole province?

**Mr David MacKinnon:** I believe so. It should not have any bearing whether a tenant is living in a unit in Toronto or Windsor or Ottawa. They should be able to have access to the same vital services.

**Mr Turnbull:** Look, I agreed with everything you had in your presentation. The only question I have, and it's the same question I had for the last presenter, is this question of the cost of providing added security. I think it is important, particularly when I look at the kinds of concerns that are being echoed, not just by tenants but by people all across Metro, about security. The fact is that if we start adding costs to landlords by adding security measures which weren't there when tenants moved in, is it not reasonable that the tenants should pay for that on an amortized basis, inasmuch as that if you own a house and you want a new lock, you go out and buy the lock?



**Mr David MacKinnon:** The landlord is in the position, as you mentioned before, that he can apply for an increase of 3% above the guideline to cover his costs in successive years for that new service. It's also in place that once that new service has been paid for, then the rents would be reduced.

**Mr Turnbull:** That's correct.

**Mr David MacKinnon:** The application here, in reference to our building, would probably not amount to a large expenditure of dollars. There is minimal, I would say, expense to be incurred that would help, such as lighting in the parking areas—the light standards are there, the light bulbs aren't—better locks on the doors, which right now due to use and age are easily accessible, and if the need of a camera to be installed in the lobby is to be put forward, he can come to the tenants of the building and ask for a capital expenditure amount, say, "This is what it's going to cost," and the tenants themselves can vote whether they will go through with that.

**Mr Turnbull:** I understand what you're saying, but the problem is this: We accept that there are some buildings where we easily can do this within the budget. If a building is not in great shape, or if it's just getting older and it's getting to the point that it needs, for example, a new roof put on the building or some extensive repairs to the underground parking garage, with the legislation that is now in place, as you correctly point out, you can get 3% per year, for a total of three years, over the guidelines. However, that isn't sufficient in most cases to pay for those repairs. That's the basic problem.

If a landlord were faced with saying, "Okay, I have to put this new security in and I can go for the 3%," or up to the 3%, presumably they wouldn't need all of the 3%, that would be fine. But that doesn't allow anything for those terribly large expenditures, if they're fixing the underground parking garage or replacing the roof or something. That's the fundamental problem. I'm concerned because we don't want to make the problem worse than we have it today. It's unacceptable for landlords to walk away from their responsibility to tenants.

**The Chair:** And the question is?

**Mr Turnbull:** The question is, would it not be reasonable, where there are new security measures, to ask the tenants to bear that over an amortized period?

**Mr David MacKinnon:** No, it's not unreasonable.

**Mr Derek Fletcher (Guelph):** Thank you, David, for coming in today. This thing about garbage, heaps on the ground and blowing all over the place, where is this garbage coming from, the dumpster in the back?

**Mr David MacKinnon:** Partly. He has at his disposal two bins that rotate, so when one is full, then—

**Mr Fletcher:** How big is this apartment building?

**Mr David MacKinnon:** There are 113 units in this building.

**Mr Fletcher:** I see. Are two dumpsters enough?

**Mr David MacKinnon:** If they are emptied on a regular basis.

**Mr Fletcher:** That's the problem.

**Mr David MacKinnon:** Yes.

**Mr Fletcher:** A question for Mr Mammoliti, who lives in that area: Is this a common occurrence in this area, with dumpsters and the garbage collection?

**Mr Mammoliti:** Mr Fletcher, I assure you that it's not only a common occurrence at this point over the last few months, but it's been a common occurrence for years in our neck of the woods. Quite frankly, our methods of resolving this at the municipal level haven't worked and that's why I've introduced this particular bill, because I think this might give municipalities the encouragement and the willingness to be able to deal with bylaws around this area.

1340

David, in your particular case, where Consumers' Gas had wanted to cut off the gas, if there weren't a particular resolution to this, if there weren't an agreement of some sort with Consumers' Gas, and the tenants and my office did try to intervene and try to help out and act as a mediator in this case, and Consumers' Gas did shut off the gas, what would that mean for the 115 families that live there? Maybe you want to elaborate on what the experience might have been if the gas would have been shut off.

**Mr David MacKinnon:** If it had gone any length of time, there would have been a problem with freezing pipes. It was a time of the month when it was extremely cold. There was, I think, minus 26 degree weather, so it was a matter of time before something would give.

There is in place a method by which the city of North York would step in to rectify the situation, but from what I've been able to find out there is no time limit, no time frame for them to do this. They said that somebody would have come to turn the gas back on, precluding any settlement, but they didn't say when.

People in the building who have small children were complaining about being cold even prior to this, that because of the age of the building and cracks in the windows and the doorways, it was uncomfortably cool.

**Mrs Joan M. Fawcett (Northumberland):** I'd like to go back to the garbage problem once again so that I can understand this, being new on this committee and on the bill. I don't know which of you would answer this, but what is the problem? Is it the municipality that isn't doing the pickup or is it that somebody isn't paying for extra pickup? Could someone just elaborate on that?

**Mr David MacKinnon:** I can find out. The building is under contract to have the garbage picked up and it is the extra pickup; there's extra charge involved.

**Mrs Fawcett:** I see. To the landlord?

**Mr David MacKinnon:** Yes.

**Mrs Fawcett:** In your particular building it would require extra?

**Mr David MacKinnon:** Yes.

**Mrs Fawcett:** And that is what's not being done and then causes the problem?

**Mr David MacKinnon:** I don't know who this landlord is. Maybe somebody in this room would but we can't seem to find out who he is. It seems to boil down, as Mr Turnbull was saying, to dollars and cents, to what

a landlord can afford to put into a building. The garbage is kept in a fire access route to the building. It is below balconies where there are bedrooms and living rooms above. At this time of the year, it's not that bad, but in the summer you can't leave your windows open.

**Mrs Fawcett:** In the heat of the summer.

**Mr David MacKinnon:** We have asked to have it removed. We have been told no, they can't, or won't.

**Mrs Fawcett:** Right now, how often is it removed?

**Mr David MacKinnon:** The interior chute garbage is removed three times a week, every second day. There are two bins for refuse outside that I think are removed twice a month, every second week. Sometimes it's just a matter of tenants getting rid of refuse at the same time it overflows. In a case like that, the responsibility should be there to call in an extra pickup for disposal. It's not done. The garbage is left there on the ground. If people can't get it in the bin because it's too full, they leave it on the ground.

**Mr Mammoliti:** Can I also respond to that?

**Mr Daigeler:** I'm sorry; if there's time, I have a question too.

**The Chair:** Really there isn't time, but Mr Mammoliti might wish to complete the response, which is what he was asking.

**Mr Mammoliti:** The bins themselves are just one component to the problem. In our neck of the woods, from what I've gathered over the years, and I believe the ratepayer president before David had said it, condoms and needles and things like that are found on a regular basis out on the sites and landlords sometimes neglect to pick them up. Maybe it's because they're afraid to pick them up or they're afraid to touch them, but that seems to be a problem throughout my area, and I think other areas in Metro and across the province, for that matter. When people talk about garbage removal, it shouldn't only be referred to the bins themselves. I think that other garbage—I think you know what I'm talking about.

**Mr Daigeler:** I'm just wondering, when the heat was turned off in your building, what happened?

**Mr David MacKinnon:** I'll correct you. Due in part to Mr Mammoliti's office, they intervened before it was turned off.

**Mr Daigeler:** It was not turned off.

**Mr David MacKinnon:** No. A notice was sent from Consumers' Gas, hand-delivered, that it was terminating service. Mr Mammoliti's office stepped in prior to this. A tentative settlement was worked out—

**Mr Daigeler:** Between whom?

**Mr David MacKinnon:** —between Consumers' Gas and the landlord for partial payment, just to put it at ease for the time being.

**Mr Fletcher:** But the landlord didn't tell you they were shutting the gas off?

**Mr David MacKinnon:** No, the landlord did not say anything. As a matter of fact, the notices that were put up in the lobby were taken down.

**The Chair:** Thank you very much, Mr MacKinnon.

#### FEDERATION OF METRO TENANTS' ASSOCIATIONS

**Mr Peter Bruer:** My name is Peter Bruer. I'm a tenant organizer with the Federation of Metro Tenants' Associations and a staff editor of our newspaper, the Tenants' Bulletin.

The Federation of Metro Tenants' Associations is a grass-roots tenant organization with about 6,000 tenant members across greater Toronto presently. We work with tenants in their buildings and in their communities to help them organize and to deal effectively with tenancy problems. We provide information and advice to tenants concerning their rights through a tenant hotline, an eight-hour-a-day telephone service. We also do law reform work on behalf of the community we represent, as I'm doing today.

We're frequently called concerning the issue of the loss of vital services. Several of our member tenants' associations have faced the problems that come from no water, no heat, no electricity. I have worked with the gentleman you just spoke to, at 2600 Finch. We were involved and are involved in helping organize their building. There are three or four other examples that I could cite in the last six or eight months that we've been immediately involved with.

We congratulate the government for recognizing the seriousness of this problem. To be without these vital services is to be returned to the Dark Ages in some ways. It can be a terrifying experience. Especially in high-rises, just making your way out of a building when the hydro has been shut off can be dangerous. I could mention also the impossibility of emergency services getting to people in the case of heart attacks or in the case of emergencies when elevators don't work, when lighting systems are down.

The kinds of problems we've been having in the last few months of this severe cold weather in Toronto, even without the interruption of services, give us a good indication of how much heat problems can cause for people: burst pipes and loss of heat, illness on the part of the elderly and so on and so forth.

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Through no fault of their own and generally because the landlord's skewed priorities have not included ensuring basic needs are met, tenants are completely inconvenienced and essentially left without a home, or at least can be. However, as tenants pay their rents a month in advance, many do not have money in the middle of the month to put towards a motel or a hotel room. They have already paid out their housing costs for the month, but in return they have not received the housing they are entitled to in these cases.

Tenants often have to rely on eating in restaurants if hydro goes down or gas for gas stoves, a substantial increase in their monthly food costs, especially if they have children. They may not be able to take pets with them. They lose aquariums, their plants and the food in their freezers and refrigerators.

In addition, it's difficult to recover any compensation for these costs the tenants incur. While Small Claims Court actions can be brought, many tenants have neither



the time nor the money to challenge their landlords. One action on the part of a landlord, the non-payment of a bill, can affect hundreds of tenants, but it's unlikely that the landlord will be substantially penalized through any single court proceeding.

Tenants should not be left at the mercy of this kind of behaviour. They shouldn't be forced to suffer the penalty that the landlord has brought on himself. It's hardly just for that to happen. We congratulate the government for recognizing that municipalities must be involved in this matter and must ensure their constituents are not abandoned in these circumstances.

However, we believe Bill 95 could be more effective as enabling legislation for the entire province. This was an issue that you had brought up before. Mr Turnbull's original private member's bill, on which this bill is closely modelled, extended the power to make vital services bylaws to every municipality. We believe the tenants of every municipality clearly need and are entitled to this sort of protection.

It simply makes sense to rationalize municipal powers through a single legislative scheme, to develop consistency where possible through the Planning Act or the Municipal Act. To pass legislation for each municipality separately is inefficient, it's redundant, it taxes your legislative agenda unnecessarily and it requires considerable effort on the part of each municipality to draft its own bill. It may lead to confusion between municipalities.

There is no reason not to create a single piece of enabling legislation. There is nothing contentious here that would require each municipality to take its own approach to the problem or put its own stamp on the solution to the problem.

We would like to recommend, therefore, that Bill 95 provisions be incorporated into section 31 of the Planning Act, which is currently open for amendments in the omnibus Bill 120. This section already provides for the making of bylaws which prescribe "standards for the maintenance and occupancy of property." As this section already contains provisions regarding offences, penalties, rights of entry and the definition of "owner" etc, it would be unnecessary to create or repeat these specific provisions with respect to vital services bylaws.

At the same time, some improvements could be made to section 31. The remedy of attorning the rents, which currently exists under the Municipal Act for the purposes of collecting taxes and which is set out in this legislation, Bill 95, could also become a remedy available under section 31 of the Planning Act for the purposes of collecting costs incurred by the municipality in the maintenance of a landlord's property.

This is the most effective way to recover costs. It's direct and simple. Adding costs incurred to the collector's rolls doesn't address the problem of landlords who don't pay their taxes and eventually may require the rents be attorned anyway in order to pay the tax bill. It's best to take this step immediately with respect to all costs incurred by the municipality which arise from a landlord's non-compliance with bylaws under section 31.

If the government isn't going to extend the scope of

this legislation to the province and apply the provisions set out in the Planning Act to the vital services bylaw, then there are several amendments to Bill 95 which we would like to recommend or could suggest. They are set out in the written material I've presented to you. Maybe I'll go over some of those, if not all, and touch on the most important ones.

Subsections 2(1) and 3(1): We would like to see these provisions regarding the passing of vital services bylaws and their enforcement to be mandatory. The legislation at present talks about "may" instead of "shall." There is a critical role which the municipality needs to play in ensuring that its own housing stock is maintained and preserved and that its constituents are not left homeless and helpless.

Tenants are taxpayers. They are different from home owners in that they are not in complete control of their housing. Just as home owners are entitled to city protection when a loss of services results from breakdowns, an accident, an act of God or whatever, tenants are entitled to parallel protections when they suffer losses through no fault of their own.

It needs to be clarified in clause 2(1)(f) that corporations can also be guilty of an offence in this respect. Clause 2(1)(e) states that it is an offence for a "person" to fail to comply. There is no corollary provision which states that a "corporation" contravening this bylaw is guilty of an offence, so this is an omission that we need to rectify. How would it be that a corporation becomes guilty of any offence otherwise? Clause 2(1)(e) simply could be expanded to refer to a "person" or a "corporation."

Subsection 2(2) talks about the tenant having expressly agreed to assume the costs of vital services. It might make sense to clarify that to say "the current tenant." Current tenants shouldn't be bound by agreements provided by previous tenants. I don't know if that's a possibility or not.

Clause 2(3)(e) provides that landlords shall be deemed to have ceased to provide vital services, an offence under the act, if they don't pay the bills and as a result the services are cut off. We are concerned that two results may happen as a result of this clause: first, that the city pays the bill and therefore the services are not cut off—the landlord is not guilty of an offence because the services haven't been cut off and there is no remedy then—or that the services are cut off and the landlord is guilty of an offence, but once again the tenants are paying for the landlord's poor judgement or callous judgement by the loss of the service.

There has to be a provision which finds landlords responsible, guilty of an offence, without making tenants the victim of the offence by having the services cut off.

We might recommend the following: that under clause 2(1)(a), landlords are required to provide adequate and suitable vital services, a term for which standards can be set under clause 2(3)(c) and it appears that the failure to provide these adequate services would constitute an offence. An additional clause could be inserted stating that a landlord is deemed not to be providing adequate and suitable services if the city must exercise its power



to pay for those bills. That too would be an offence under the act. There would be some remedy then, some sanction against the landlord so that doesn't happen.

Subsection 3(1) implies that there may be a gap in services before the municipality steps in to arrange for them to be provided, and this is related to the previous point. We believe that this hardship to tenants should and can be avoided by amending the bill. If the city has 15 days' notice from the utility company that the services may be shut off, there could be a process by which the city can arrange for the services to be continued prior to their actually being cut off.

The bill should require the city to notify the landlord of its intentions, to warn the landlord that if they do not indicate by the day previous to the shutoff that they will pay the bill, the city can charge the 10% administration fee even if the landlord does pay at the 11th hour. This administration fee would compensate the city for the inconvenience it experienced in having to make these arrangements, and make a cheque and be prepared to pay the bill and so on ahead of time.

Clauses 3(3)(a) and (b) talk about the application of the legislation, and we strongly disagree there should be any particular classifications of housing or designated areas of the city in which protections offered by this bill would be selectively provided to certain tenants. All tenants are entitled to this protection. Tenants can't live without these basic services. They are vital to any adequate standard of living. Tenants should not be victimized twice over, first by the landlords and then by some municipal agenda.

If a unit is illegal, for instance, the city has the power to take steps to order it to be closed down, but meanwhile it should ensure that the tenant isn't paying the price for the landlord's illegal action in renting it in the first place. This is in reference to illegal units in general.

Subsection 4(1) talks about the notification of tenants, and we would simply suggest that there be a written notification from the landlord and that the notice specify for the information of the tenants—this is quite important as an organization that talks all the time directly with tenants who have these kinds of problems—that payment by the tenant to the city because of the default of the landlord shall be deemed not to constitute a default under the Landlord and Tenant Act. In other words, they do not have a fear that they will be evicted for non-payment. That's something that has to be given directly to tenants before they're going to believe it or before they will understand it, and it's simple enough to include that.

There are several other recommendations then, that perhaps fines be levied against landlords for breaches of the bylaw, to put teeth into the law so that not only does it solve a problem that is meant to be solved, and we certainly endorse that, but that there is enough guts in the legislation to actually make it work.

The 10% administrative charge is a handling charge to the city for keeping the landlords' books for them and paying their bills for them and so on. This money of the taxpayers could be better used elsewhere, and it shouldn't be considered a service the city should provide to landlords so they'll pay their bills or something. There should

be financial penalties for not meeting your obligations as a landlord.

1400

Finally then, a definition of "landlord" to include all of their agents, employees, heirs, assignees, mortgagees in possession and so on could be taken from the Landlord and Tenant Act just to clarify that. There are certainly a great many manifestations of the word "landlord," and particularly today, with defaults on mortgages and management companies and so on, arm's-length transactions, foreign investors, it's important to have a clear definition of exactly who are the parties involved here.

That's what I'd like to say for the time being. I'm happy, of course, to entertain any questions.

**Mr Mammoliti:** Thank you very much for coming today, Peter. I appreciate it, and I'm sorry I missed a portion of your presentation. You may have talked about this already, but I think you've seen today that people are concerned about security and garbage removal. What are your feelings on that?

I know you've also said that all tenants should be entitled to these vital services, so if you're in agreement with those amendments, would you also agree that certain parts of the city might find that security and service are more vital than in other parts of the province perhaps?

**Mr Bruer:** It's certainly a possibility. We have a lot of problems with security, particularly in large apartment buildings, but pretty nearly anywhere, and it cuts right across the board. I don't think there is a neighbourhood in greater Toronto that we're in touch with that doesn't have some kind of security problem or where people don't feel that they have a problem, whether there are examples of break-ins and so on or not.

It's a big problem for people, one of the major problems that we organize around, one of the major problems that we hear about and are attempting to help tenants on. I would say that in many ways it's as vital a service as others in regard to the property damage that a loss of vital services like utilities may cause: the loss of food in refrigerators, the freezing of pipes and floods, the death of pets and so on and so forth. Security concerns obviously have the same implications for people's property, their automobiles, the safety of their apartments and so on, and it's a threat to people's persons as well.

I have a personal experience with an apartment building in the centre of Toronto where it was considered by the courts, I guess the Divisional Court, that security in the building was a vital service and a landlord was ordered to provide locks on the front doors and intercoms and 24-hour security guards for a short period of time. That precedent certainly exists and it was something we felt strongly about at that time. That was several years ago.

The question of garbage removal is maybe a little more difficult to deal with. It's not as life-threatening. It may affect people's enjoyment in their premises but rarely does the problem of garbage disposal actually damage property or threaten somebody's life or threaten their health in a way that security can. But I would say it's an issue as well.



**Mr Mammoliti:** Somebody posed a question earlier about how often this happens. You would be a little more qualified than some of the others to talk about the frequency in terms of vital services being cut off in buildings. How often does it happen?

**Mr Bruer:** It's hard to answer that question without some kind of benchmark. How often does it happen? We probably have talked to dozens of buildings over the last year or year and a half, where the threat of cutting off vital services is a fact. We've talked to probably dozens and dozens more individual tenants, because this is something that can happen not only in an apartment building or complex, but in a private home, a duplex or a basement apartment, for that matter.

I don't have the statistics in front of me, because we don't keep that kind of detailed statistic of the telephone calls we get, but it is a regular and routine kind of call to get on our hotline. As I said earlier, we have 5,000 or 6,000 calls a year from tenants that services are being interrupted, that there is a notice from the hydro company or the gas company or that services have in fact been cut off, or they went and pulled the fuses on a tenant because they didn't want to have to pay the bills any more, or there was a dispute about the payment of the rent or there was a problem with the bills or whatever.

I'm not sure how to answer the question in numerical terms, to say, "This many calls a month," or, "This often," but it's as important an issue to tenants as most other issues, I would say. It's one of the major components of the maintenance and repair problem, which is the dominant issue, no question about it, today.

**Mr Daigeler:** Thank you for your presentation on a problem that I guess is real. You are congratulating the government for bringing this forward and recognizing the problem and perhaps doing something about it. I think the congratulations are probably a little bit premature since this is of course not a government bill.

**Mr Bruer:** Yes.

**Mr Daigeler:** At this point it's a private member's bill and we'll see whether the government will support this at the committee; I presume they probably will at the committee but in the House is a different matter.

**Mr Bruer:** Point well taken, yes.

**Mr Daigeler:** You know what the fate of private member's bills normally is.

**Mr Mammoliti:** It depends on the opposition.

**Mr Gordon Mills (Durham East):** It's in the hands of the opposition.

**Mr Daigeler:** In any case, I'm wondering whether the proposed solution will really work for the problem that is there. Are you aware at all, have municipalities ever taken over the provision of the vital services? In the ideal it sounds good, frankly, to me, and I certainly can see that if you don't get the vital services as a tenant, it's terrible, but will the municipalities be getting involved in collecting all of this and so on? I have my doubts.

I would have liked to ask that, obviously, of municipal representatives, but as far as I can see there's only one councillor coming this afternoon. I would have liked to

hear from the city on this. Since they are not here, I'm asking you that question: What do you expect the cities to do? Are they really going to accept this as their responsibility or will they balk at that?

**Mr Bruer:** It's certainly an excellent question and it's one of our concerns with the way that whatever legislation might come forward and be adopted is run. That's why one of our main concerns is that the legislation be put in such a way, first of all, that municipalities don't have the open-ended options to maybe enforce these things if they maybe want to pass by bylaws, but that they be mandated by the province to do these things. Municipalities must guarantee these services to tenants. They are vital, not just luxuries or incidental, and they must enforce them and the legislation must reflect that in the language it uses.

It's not necessarily just going to happen. The provision of maintenance enforcement by municipalities is a major issue for the tenants' movement right now, has been for the last number of years and probably will continue to be for a number of years.

The alternative, though, is that there is no other kind of enforcement. Tenants themselves have to get their rights enforced as best they can. They can put on political pressure and they can raise the issues and so on, but if it isn't going to come from municipalities, where is it going to come from? It's going to come from the province, I suppose, in places where no municipal inspection services exist and that's something the province can deal with to make sure that the Ministry of Housing is prepared to enforce these kinds of standards where municipal standards don't exist, where there is no municipality to pass a bylaw.

I think we all just have to be more vigilant in terms of the enforcement of property standards in general. We have the same problem around maintenance, we have the same problem around elevators and we have the same problem around garbage pickup and security and so on.

Yes, it's difficult. I think the way for the province to make it easier is to make sure that this bylaw is as mandatory as possible or that this law is as mandatory as possible or that it is included in the Planning Act in a definite, "You must do it" kind of way as opposed to a, "Maybe you could do it." Then we've got to lobby each city individually to try to get them to do it and put the resources into it and so on and so forth. It's a good question.

**Mr Turnbull:** Thank you for your comment about that you believe it would have been appropriate if we could move forward with the general legislation. For your information, the London bill, upon which I closely modelled my private member's bill, cost \$13,000 to London, and this wasn't including internal staff time in London, this was just outside legal help, and it took them over two years to get the legislation through.

At a time that municipalities are being squeezed because their transfer payments are being reduced, it would seem logical for us to be able to move forward with a bill which would not incur any further costs to municipalities, and yet—I wonder if you could just comment on this—I received a letter dated December 7



from the Minister of Municipal Affairs stating that he would not support my bill. If I can just read an extract, "I cannot support your efforts to bring forth general legislation enabling all municipalities to enact vital services bylaws." It goes on to say, "It would be premature to enact such legislation without consultation with the Association of Municipalities of Ontario."

1410

In fact, I have a letter from AMO in which it supports this position of moving forward with general legislation and further goes on to state, "We are aware that the Ontario Association of Property Standards Officers, which has over 600 members from across the province, has expressed their support for the Toronto Area Property Standards Officers Association," which is known as TAPSO, for this kind of legislation.

The presenters so far today have all said they're in favour of general legislation, and yet one of the problems I am hearing is that I'm advised it may be ruled out of order to amend this bill, Bill 95, in order to achieve the province-wide legislation we're hoping for. This is a procedural matter rather than anything which is based on any logic. I wonder if you could just comment on that and what you feel the next move should be as far as you're concerned.

**Mr Bruer:** As we state in our presentation, we would suggest that the most logical way to proceed might be to simply amend the Planning Act, section 31, which presently already talks about the provision of bylaws regarding maintenance in the occupation of property, has mechanisms for the enforcement of those bylaws, contains the procedures and so on and so forth. I'm not sure what the procedural red tape may be in terms of trying to do that, but that's another option that if it's not ruled out of order, might achieve the same end and in a more efficient fashion.

I don't know enough about the procedures at Queen's Park myself to know how to advise you about that, obviously, except to say that it is an urgent issue. These are vital services and the word "vital" is the key word here. They are services that can go all the way to the point of being life-threatening, if it's something that doesn't happen, if something isn't done. I think the severity of this winter has made that particularly apparent to people. It would be a shame if mere procedure were to stand in the way of a solution happening for the province. There's no question in our minds that a provincial solution may as well happen now rather than having to go through this time and time again.

**Mr Turnbull:** Could I just get one clarification? In your brief, with respect to subsection 2(2), you're talking about "the current tenant." Could you just clarify what you mean by that?

**Mr Bruer:** There may be some confusion in the subsection that specifies that a tenant has agreed to assume the cost of the vital services, thereby implying that if the landlord does default on the cost, it wasn't the landlord that should have paid in the first place, that it was agreed that the tenant would pay the cost of those utilities

Maybe it should be clarified that it state "the current

tenant," as opposed to "the tenant" in the general sense, because that agreement will change depending on what tenant is living there. Some tenants will agree to pay utilities. Another tenant may come along and change that agreement and not agree to pay the utilities, a different arrangement be struck, and it needs to be clear that at the current time it is the current arrangement that needs to be looked at and not some history of the arrangement.

**Mr Mammoliti:** A clarification, Mr Chair.

**The Chair:** Mr Mammoliti, quickly.

**Mr Mammoliti:** Peter, I notice that on page 4 of your brief, the last paragraph, you refer to (3)(a) and (b). There is no 3(3)(a) and (b) in the legislation. Would you mean 2(3)(a) and (b) there?

**Mr Bruer:** Yes, it probably is 2(3)(a) and (b). That might be a simple mistake.

**Mr Mammoliti:** We just needed that for clarification for Hansard.

**Mr Bruer:** It's the section of the legislation that deals with the definition of where this legislation would apply. I think the point is clear that it's an all or nothing. There's no reason why some people should enjoy the benefit and not others.

**The Chair:** Just because some members seemed a little exercised, the question was merely about a number within the presentation that needed to be clarified.

Thank you very much for making your presentation, Mr Bruer. We will be considering this bill shortly.

KATHY STEPHENSON

**Mrs Kathy Stephenson:** My name is Kathy Stephenson. I live at 1002 Lawrence Avenue East. I am a tenant there. I am very active in the association and when we had our problems with the building. I'm here today to hopefully promote and to speak on the vital services act to have it passed and to maybe shed a little light on the absolute need for this bill to be passed. I can only speak from personal experience as to what happened to us.

There have been numerous things brought up about the Consumers' Gas bill. We too were threatened by Consumers' Gas that it was going to discontinue our gas service, which of course would disallow heat and hot water. We, as tenants, had to band together two months worth of rent to pay an over \$25,000 bill in order to keep that service on, because there was absolutely nothing anyone could do. They were willing to say: "Well, there's nothing we can do. You'll have your gas cut off." We were stopped in our tracks. We had to pay it. Thus we didn't pay our rent, so we're open to problems there because they could have come on to us for the rent as well as paying the bill.

There was another problem that we had. We had no water in January 1993 for 18 hours. Numerous phone calls to the city did nothing; nothing anyone could do because they're not allowed to come on private property. The mayor of North York finally took the bull by the horns, so to speak, and ordered the city on to the property to break the door down and to go in and snake the drains out, which would give us our water back after 18 hours of no water. He took it, of course, upon himself and he left himself open to various things as well. That is just



one of many things that happened to us in my experience at the building.

The need for the vital services act, I can't stress enough. To have it in place in North York would be beneficial to myself and the other tenants of North York, yes, but this is something, as Mr Turnbull's private member's bill indicated several months ago, that should be a province-wide thing. I definitely agree with that. Why should each individual town or municipality be forced to go through what we went through for a year and then have to bring it into this sort of situation and take the months that go by to have it passed? Why not just pass it right over the board and have it done for everyone?

North York isn't the only city that is open to this kind of abuse. There is the growing number of apartment buildings in the city that are getting older, and because of the tight rent control guidelines, landlords have become aggressive, and they must find ways to make money and to make more profit off their building. Thus they don't do repairs. They can't raise the rent to compensate for the repairs they have to do.

Our own personal experience was co-ownership. They were trying to turn our building into co-ownership, thus we were open to all sorts of harassment techniques to try and get us out of that building: lack of heat, lack of water and nothing anyone could do about it. This is a serious problem. For people who are not in apartment buildings, I don't think you fully understand that we are literally at the mercy of the landlord.

I want to bring up the heating and the health inspectors. We are totally cut off from them from 5 o'clock Friday afternoon to 8:30 Monday morning, the reason being that they can't get an inspector out. The landlord can turn the heat off at 5 o'clock and turn it back on again Monday morning and there's nothing anyone can do about it. You try living in that situation in weather like this. It hasn't happened to us this winter, but last winter we had pipes freezing and various other things. Elderly people were forced to leave the premises because they were freezing. Like I say, the need for this act, I can't stress enough; I really, really can't stress it enough.

Another issue that should probably be brought into this act is pest control. There is a problem running rampant in the building. The landlord refuses to have the building done. Why can't the city pick it up and come in and do it to help the people out?

The garbage issue: Yes, that's a big issue, garbage all over the place. The city comes to pick it up. They don't clean up the mess. That should be the landlord's responsibility, to clean up the mess that falls from the dumpsters or whatever the case may be, wherever it comes from.

I can't stress enough how important this bill is and how much I do want to see it put in place, not just for North York but for the entire province. The city of Toronto has it; the city of London has it. As Mr Turnbull pointed out, the cost was absolutely ridiculous, thousands of dollars. I don't know what it's going to cost for North York to have it done, but I wouldn't want to pick up the tab if I lived somewhere else; there's no way.

There's really not a lot more I can say on this except to leave myself open to any questions you have and to just say that I feel very strongly on this. It very much needs to be passed. That's all I can say.

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**Mrs Fawcett:** I'll just say that it's an excellent presentation.

**Mrs Stephenson:** Well, to the point.

**Mrs Fawcett:** I'm happy that you came to present your side.

**Mr Daigeler:** As I said to one of the earlier presenters, it's obviously a real problem when it occurs, a terrible problem. But I think, as you mentioned yourself a little bit, there's a bit of a vicious circle that we're entering here. There's something in here that makes me hesitate, frankly. I think what we're asking is sort of the general taxpayer to look into the problems that exist at particular buildings because the city will, I guess, have to take over from the landlord.

I presume the landlord is not doing it because he doesn't have the money. As you said yourself, there is rent control. He has to squeeze and so on, so he can't cover his costs. Presumably, if the city then charges 10%, he'll have even less money to provide the 10%. Probably he will default and it will go perhaps the city. Then the city will have to run the building. If the landlord can't already make it profitable, will the city be able to make it profitable? I don't know.

I'm just concerned that passing all these laws may not really be the solution. What may be necessary is simply a reasonable return to the landlord as long as we have a private market in housing so that he can cover those expenses. If there are cases obviously where it isn't because of economics—I don't know how one establishes this—it'd be terrible. I'm a bit worried that the laws may not be the solution to what I accept as a real problem. It's not really a question, but it's perhaps a comment and you may wish to respond.

**Mrs Stephenson:** I realize municipalities do not want to become landlords. That's not what we want done. As tenants, we have the right in the Landlord and Tenant Act to be provided with certain services. We're not asking for anything we're not entitled to. We are entitled to heat. We are entitled to hot water. These are just basic needs. We're not asking for any special favours.

I really don't see why because he's being held back by the guidelines of rent control, we should have to suffer for this. Again, there's no act in place and nobody can step in and stop this, like the aggression of the landlord who says: "Well, I'm sorry, I'm not making an extra few dollars this year. You have to suffer for it." Why? There must be something out there that somebody can do about it. This seems to be the only viable solution at the time unless somebody can come up with something better; I'm all for it, but there just doesn't seem to be anything else.

I see what you're saying and I understand what you're commenting on, but you have to understand too that we're not asking for the world; we're asking just for our basic survival needs. That's not a lot to ask for. We pay our rent faithfully every month. That rent, parts of it I

gather, is divvied up to pay a little bit into this, a little bit into that to keep all those services on.

What reason do they have to keep it away from us? They have none whatsoever, except for their own aggression or hostility. Nothing's in place to stop them from being aggressive and hostile like this towards tenants. If there's any other solution to it, then I'm all for it, but I don't see where there is at the moment. Right now there's nothing, so anything would be an improvement, anything. To put it in place across the board, across the province, is what's necessary, because I could leave the city of North York and move to the city of Markham, and do I have to go through this again?

*Interjection.*

**Mrs Stephenson:** Orillia, you name it, anywhere in the province. Do I have to go through this again? Don't you find that a little silly? I do. It should be put in place. Tenants need help out there. There's a lot of us who need help and we have nowhere else to turn but to the government. When they turn their back on you, what do you do, where do you go? You've got nowhere to go. That's the bottom line.

**Mr Turnbull:** Kathy, thank you very much for a very good presentation. I wish the other members of the committee could have the benefit of knowing the very difficult circumstances you've been through.

It's very frustrating dealing with the mechanisms of government and realizing that you can't just wave a wand and get logical legislation passed quickly, because here we are over a year after your problem developed and we're still trying to solve it. Of course, your problem was compounded by a very peculiar circumstance that the landlord was trying to skirt the law and make it into, in essence, a co-op, but not quite. Consequently, all the financing that had been put on the building was quite beyond the ability of the current rents to be able to service that. The whole financing was predicated on the landlord being able to sell the units. First of all, they had to get vacant possession of those units. I think part of the terrible conditions you were subjected to was very deliberate on the part of the landlord.

**Mrs Stephenson:** Absolutely.

**Mr Turnbull:** This really is by way of explanation to my colleagues here on the committee. You've spoken eloquently for the need, that we should have this across the province. I think you were in the room when I read an extract of the letter from the Minister of Municipal Affairs—

**Mrs Stephenson:** Yes.

**Mr Turnbull:** —saying he doesn't, at this time, see any need for it.

**Mrs Stephenson:** That's because he doesn't live in an apartment building.

**Mr Turnbull:** I guess so.

**Mrs Stephenson:** He's never been through it. I'm not trying to be smart.

**Mr Turnbull:** As a matter of fact, I believe he owns apartment buildings.

You know my private member's bill would have

allowed for it across the province.

**Mrs Stephenson:** Yes.

**Mr Turnbull:** I was hoping we could get an amendment through today to this bill, as you're well aware, but I'm told there may be some technical problem as to how we can amend this particular bill. I just hope we can take away from your comments a directive to all parties that we should, as a matter of urgency, address this for all municipalities in the province.

**Mrs Stephenson:** Absolutely; I agree.

**Mr Turnbull:** Thank you very much for your presentation. I know the terrible times you've been through. I do hope we can solve it for you.

**Mrs Stephenson:** I do too, and quickly, hopefully. Thank you very much.

1430

**Mr Fletcher:** I want to thank you for being here today. Two things: If the Conservatives present an amendment to make this province-wide, I can't see us not supporting that. I think that's a pretty good idea. I know that when Mr Mammoliti did this private member's bill, it was specific more to his riding than the province, but I agree, I think the province should share in this and I'm willing to support Mr Turnbull's amendment. I don't know about the other members; I'm speaking for myself.

As far as the surveillance is concerned in an apartment building—I find it strange that I share the same concern with Mr Turnbull on this one, but I do—I can understand existing surveillance as far as being under vital services is concerned, and I would really like to see surveillance in underground parking garages as part of the surveillance package, if anything. I know what goes on in underground parking garages. I'm not sure about the surveillance systems that would have to go into lobbies and the cost that would be incurred by the landlord. Is there any way around the surveillance, something we can work on over time or something?

**Mrs Stephenson:** By "surveillance," I gather you mean like a video camera, turn your television to 41 and see who's at your door. In our particular building, the need for that is—we have, of course, locked doors and an intercom system, when the locks work, which is the problem. You can install video cameras all over the place, but if the actual locks aren't being tended to and fixed properly, what's the point? People can come and go as they please anyway.

**Mr Fletcher:** So maybe the locks are the biggest thing first and then—

**Mrs Stephenson:** This is something else that should be addressed. These should be tended to and repaired promptly, not waited for. In higher high-rises, yes, there should be that surveillance, absolutely. We're in Don Mills, so fortunately we're not in too bad an area, but in other areas of North York, definitely, absolutely, they need this.

**Mr Mills:** Thank you for coming here this afternoon. I listened and I have so much empathy with what you're saying, because I live a Jekyll and Hyde life. On the weekends, I go home and live in a house; everyone should have that type of accommodation. Then I come



down to Toronto in the week and I live in one of the apartments of hell. I just wanted to tell you that—

**Mr Fletcher:** That's on Hansard now.

**Mr Mills:** It's right. We have bodies in our dumpsters where I live. I just wanted to tell you that I haven't heard anyone mention the elevators in the vital services. I can tell you that where I live, a few weeks ago there was some dispute over the repairs to the elevators, I believe, and the company came in and took the motors out.

I went home that night and I wondered what the kerfuffle was. They said, "The elevators are not working." I said, "What happened?" They said, "Well, they took the motors out." Now the landlord wants me, us, to call the elevator company and complain about the motors going out when they didn't pay up. I don't know what you think about this, I've experienced all these horror stories that you're talking about in the three or four years that I've been down here. Don't you think that vital service should include elevators?

**Mrs Stephenson:** Yes, absolutely. I agree with that.

**Mr Mills:** I was terrified about not only myself but others who might be taken ill. How the dickens would we get down from the 23rd floor?

**Mrs Stephenson:** We ran into that problem ourselves, because of an aggressive landlord, where the elevator was out of service for 10 days. There's no reason for 10 days to go by. We have seniors in our building. There was a couple on the top floor, the fourth floor, and they are in their eighties and it was the middle of the summer, when it was 100 degrees. These people should not be forced to walk up the stairs in that kind of heat. They're leaving themselves open to heart attacks and Lord knows what all, even bringing in groceries. I have small children myself. If you have to bring them in or take them out in an emergency situation—God forbid, but if you did—that elevator service should be tended to promptly, not wait 10 or 11 days. Our situation was a harassment technique, so it's a little different, but I do agree with you on that.

**Mr Mills:** I'd like to see elevators included as a vital service. I'd like to leave a couple of minutes for my colleague.

**Mr Mammoliti:** First of all, I would definitely support any amendment that would extend the bill throughout the province, and I think I've got my colleagues convinced that it's important as well. I think the deputants such as yourself today have convinced us that it's important for us to support it, so we will be supporting that particular amendment when it comes forward.

I also would like to say that from what I've seen over the last few days, this bill is not just a tenants' bill any more; it's not something that only tenants agree with. As you've seen today, if you were here earlier, it's become a home owner, ratepayer type of bill as well. The home owners believe that if security and garbage removal become a vital service, it will help them as well because of the fallout that lack of security and lack of garbage removal would incur in particular areas.

Perhaps you can give me your response on your experience with some of the home owners around the buildings and what they think this bill might do. Have

you had any experience around that?

**Mrs Stephenson:** I haven't had any experience with it. The only experience we did have was that some of the home owners around the neighbourhood were complaining, and that was it, about what was happening to us and the state of the building. I don't think the same act that comes in to act for the tenants should be in place, the exact word-for-word act, for home owners. It's a different situation. They're a lot more in control than we are. That's the way I feel about it.

**The Chair:** Thank you very much for coming. We appreciated your presentation. This committee will stand in recess till a quarter to 3.

**Mr David Johnson (Don Mills):** Just before that, do we know that the last deputant is or is not coming?

**The Chair:** We understand that she is to appear.

*The committee recessed from 1436 to 1446.*

MARIA AUGIMERI

**Ms Maria Augimeri:** Good afternoon, Mr Chairman and members of the committee. My name is Maria Augimeri. I'm a Metro councillor for Black Creek ward. That ward lies within the boundaries of the city of North York, in the northwest end.

Thank you very much for allowing me to appear before you today. I'm here to lend my support to Bill 95, An Act to provide for the passing of vital services by-laws by the City of North York.

The issue of tenants and their exploitation is very important to me. My ward, Black Creek, is located in North York. Many of the issues which this bill attempts to deal with are problems I encounter every day as the Metro councillor in this particular community. Some landlords simply do not provide basic and essential services to tenants, and we need to give the local municipality more power to force landlords to provide the vital services.

It is important that not all landlords are grouped together and branded as slumlords or slum landlords or accused of not caring for their tenants. But it is equally important to point out that tenants are the clients, the consumer group, for the landlords. Just like any other consumer group is protected from unscrupulous companies and retailers, so too must tenants be protected from those landlords that are unscrupulous and can be considered slumlords.

I believe the purpose of this legislation is not to punish the landlord but to protect the tenant. We cannot lose sight of this basic but very important fact. Landlords will only be penalized if and when they do not provide an essential service to their tenants, to their consumers.

Allow me to tell you for a moment about several tenants and tenant buildings in my ward.

I'll refer firstly to 4750 Jane Street, a site that I'm sure Mr Mammoliti is also very familiar with. It is one of the worst buildings in our area. I received many phone calls from various tenants in this building asking me for help. Unfortunately, the most I or my office can do is to bring the complaints to the attention of the bylaw department of the city of North York.

One of the first cases I dealt with in this building was a complaint of serious insect infestation. The problem was so bad that the refrigerator, which had no seal around the door, was also infested. Earlier in 1993 a report was issued by the city of North York listing 25 defects in this building, but to date, the problems continue. The problems of break-ins to cars in this building's underground are constant. Either the garage door is perennially stuck open or the front door doesn't work; the locks don't work. It seems that anyone has access to this building, making it an unsafe environment for tenants.

Just last week, another tenant in this building called my office to complain about the length of time it takes the property manager to carry out work orders even when served by the city officials with violation notices. In this specific case, a violation notice and work order was issued by the city on November 15, 1993. As of February 10, 1994, the work had not yet begun. The tenant complained continuously to the property manager and to the city of North York officials. Finally, after a month of complaining, the work was commenced on February 12. Even when she confronted the city inspector on the issue of the length of time to get the work done, he responded that he didn't know how much longer it would take or when he would file a notice of non-compliance with the Ministry of Housing.

Other excellent examples are the properties at 11 Catford Road, 20 and 25 Broadoaks Drive and 3710 Keele Street, all owned by Northview Heights Development. I recently got involved in an issue at this site in my ward. The company that owns the site had made application to the city of North York to build an additional apartment building on its property. Although that is not the issue here today, you may be interested in knowing that at a public meeting I held for the tenants it was brought to my attention that a large number of problems existed within the current four buildings on the two neighbouring sites.

I wrote a letter outlining a number of concerns, including health and safety issues, to the city of North York. Upon receiving my letter, an inspector was sent out to examine the four buildings. This resulted in four notices of violation being sent out, one for each building. He found 30 defects at 11 Catford Road, 27 defects at 20 Broadoaks Drive, 18 defects at 25 Broadoaks Drive and two defects at 3710 Keele Street, for a total of 84 defects, some of them of a structural nature. What is the most surprising in this example is that the landlord wanted to build a new building on the site while all these other problems existed within the current buildings.

These are just two examples of the many which show the condition and the treatment tenants must endure. Any legislation which goes one step further to protect them is good legislation. Aside from the cases I have given, it is very clear that there is only a limited amount that the bylaw department can do, given the current legislation. This new legislation would add to their power to act, and if they refuse to act, they can no longer push the blame or responsibility on other levels of government.

This brings us to my next point: Just what is an essential service? The definition of "essential services"

must be clearly spelled out in the legislation. The less vague the legislation, the more likely that the city will act on it. I believe that aside from utilities like water, hydro and gas, other essential services should be security, elevator service and regular maintenance needs.

Security is clearly something that is a concern to all tenants. Unlike a house, entry into a building gives one access to many people's homes. In some buildings in my ward, this means 400 units. I would argue that it is a vital service that all outer doors on the ground floor be locked at all times and that every building have a fully functional entry security system. I would also suggest the following: that any apartment building with more than 50 units have a security camera on all entrances and that buildings with more than 150 units have at least one full-time security guard in addition to the camera security.

Why is security so important? Far too often, I have heard stories of people being attacked and robbed in various areas of their own building. The number of people who complain about car break-ins and theft is very high. Most of the vandalism and damages that occur to buildings are caused by people who do not live there. The safety of tenants and their belongings can no longer be ignored. Security has become a vital service.

It can be said that most tenants live in high-rise buildings, yet it is far too common to find buildings with 10, 15 or 20 storeys that have elevators which do not function properly or are turned off at the superintendent's will. Buildings that have several hundred units or more and are home to over 500 people must have adequate elevator service. It is clear that in these cases elevators are vital, particularly for the elderly, for the incapacitated and for the very young.

Finally, the issue of regular maintenance and cleaning: Nothing can destroy a building and the homes of many people quicker than a property manager who does not have regular cleaning and badly needed repairs done in a timely manner. Landlords who permanently put off repairs to units and general maintenance to the building are taking advantage of all their tenants by taking a full rent cheque and giving little or nothing in return in terms of maintenance.

Since the annual guideline for rent increases is based on increasing costs for utilities, taxes and maintenance, it stands to reason that a good argument can be made for the inclusion of maintenance and cleaning as a vital service. After all, if maintenance is not performed on a timely and regular basis, this will only invite further health and safety issues for both the residents and the owners of the buildings.

In closing, I want to leave you with a small picture of the situation out there. My ward alone has 119 tenant buildings with a total of 13,460 individual units. These buildings are home to 32,920 people. This is based on the Metro statistics for November 1992. This is only a fraction of all the tenants in the city of North York, but my ward is the most densely populated and has a higher number of tenants per capita than any other Metro ward in North York.

These people are a vibrant part of our community, yet they seem to be the least protected in a number of ways.



Today, you have the opportunity to help protect them a little further when it comes to their homes. Please don't let this opportunity go by. Ensure that this legislation is passed.

I want to add one more thing. There are many people here from the community who are home owners and not tenants. They fully support the legislation and they're here supporting the legislation today because it affects their homes, their single-family dwellings, if these buildings are cleaned up and made safe.

**Mr David Johnson:** Maria, I assume that when you're talking about installing cameras in all the buildings with over, I think you said, 50 units, and when you talk about adding security and cameras in those for over 150 units, then you're contemplating that both of those would be charged back to the tenants, through the rent increase.

**Ms Augimeri:** Yes.

**Mr David Johnson:** In terms of many of the problems that you started out with, and you listed many defects—25 defects here, 32 defects there etc—and the long period of time it takes, it's certainly my contention, having lived through it, that obviously most of that would not be part of the vital services unless, as you say, maintenance is brought in, but in terms of what's before us here today I doubt much of that is Consumers' Gas or hydro or whatever that's—

**Ms Augimeri:** But some of them were structural defects, as I mentioned. Those would be included in vital services, I assume.

**Mr David Johnson:** Maybe. I'm not aware how they would come in under the definition that's before us today.

It's my contention that it's the process that is causing a lot of the trouble. For example, in North York or East York, basically you have to notify the landlord of problems in the first instance, and usually that's done on a somewhat amicable basis, and then go out and inspect. Two, three, four weeks later—there has to be a time frame; the procedure that's in place now requires a time frame—if they're not corrected, then a notice is issued.

Then there has to be another time frame—it could be two, three, four weeks; it's not incumbent for four weeks—and then an order to comply and then another period of time. Then the landlord has the right to appeal to a tribunal, and the tribunal can put it off, particularly if it's in the winter. If it's still not done and another inspection is done, then it has to go to court, and to get a court date can take for ever.

Other than introducing maintenance as part of this bylaw, don't you agree that the present system that's in place, which is set up by the province of Ontario—this is not the municipalities making it up; this is a system that's put in place by the province of Ontario—is very time-consuming, very long? It's almost impossible for municipalities to go through the current system on a timely basis to give the tenants the kind of living accommodations they need. Really, we should be looking at that process here as well as the vital services bill.

**Ms Augimeri:** I agree totally. In addition, I'd like to

say that I'd like to see maintenance included in there, but of course you can't just have it open to maintenance and cleaning. You'd have to have it spell out that it would be maintenance and cleaning only to the point where it would affect health and safety.

**Mr David Johnson:** Some of the problems you'll have in some of the things you have put in will be in terms of defining: defining what is maintenance, defining, for example—I don't know if you mentioned garbage. Maybe you didn't, but other deputants did. I wonder, on maintenance, for example, how are we going to define that across the province, if we look at this across the province of Ontario? I assume you would agree that this should be applied not just to North York, but across the province of Ontario.

**Ms Augimeri:** Definitely.

**Mr David Johnson:** If it is, who is going to define what is a suitable level of maintenance and when a municipality should come in? Do you leave that up to a municipality and have different rulings on one side of Victoria Park and the other side, depending what municipality you're in, or should the province define that?

**Ms Augimeri:** I think it should be provincial so that it would be one level of maintenance for all. That's right.

**Mr David Johnson:** So the province of Ontario would set a definition as to what is an appropriate level of maintenance and then have a general bill across the province, and if in a particular apartment that's not met, then that municipality can step in, do it as a vital service, in a sense, and charge for it.

**Ms Augimeri:** What I found is that so many months go by after the notice of violation has been issued by the city that people give up and stop complaining.

**Mr David Johnson:** I think that gets back to the process. The process is just so time-consuming with the notices, the orders, the municipalities have to give, and they're bound to do that today.

1500

**Mr Fletcher:** Thank you for your presentation, Maria. Going back to the surveillance in underground parking lots, it's strange that over the last couple of weeks I've heard of people who have had their cars stolen or broken into. When you ask, "What did your landlord do?" there's not much they can do about people getting into the basement, into the garage.

**Ms Augimeri:** One landlord on Jane Street found a solution to the locked-door problem. He left the door perennially open with a mechanical arm, so that the door to the garage is always open. So every night they have break-ins and auto thefts. That's his solution.

**Mr Fletcher:** Yes, that's what I was getting at. There isn't much about a person getting in, but as far as the surveillance cameras are concerned, do you think they should be in not only the parking lots but also the lobby and the hallways?

**Ms Augimeri:** I didn't mention them in my presentation on the parking lots, but that's a good idea. I only mentioned them in the entrances to the building.

**Mr Fletcher:** I think they should be. Coming in at

11:30 at night, anyone, whether male or female, I don't care, it's a pretty scary thing in an underground parking lot. What about surveillance cameras in all hallways, if this is going to be province-wide—

**Ms Augimeri:** It's a good idea. In my presentation I addressed the issue of the entrances to the buildings because I think that's one of the areas that has to be addressed first.

**Mr Mammoliti:** Thank you, Ms Augimeri, for coming. I appreciate your taking the time out of your schedule to be here. I know we share some of the same concerns and I appreciate your backing the bill.

You talked a little bit about home owners and how some home owners might feel that this bill be necessary to carry through the process, but you didn't elaborate. I'm wondering whether or not you can tell us why home owners believe this bill to be important, especially if some amendments are made, such as security.

**Ms Augimeri:** There are presidents and vice-presidents of the local home owners associations here, sitting behind me. At a public meeting that was held about two and a half weeks ago, what came out was that home owners feel that their properties, their single-family dwellings are devalued, are lowered in value, if they happen to be near one of these apartment buildings that is owned by, for want of a better word, a slum landlord.

What happens is that the exterior of the building falls apart. Garbage is thrown on to the balconies and it's very visible from the streets and from their homes. Garbage is dumped where it ought not to be. Entrances to the building are unkempt. The parking lots are unkempt. Violence flourishes and break-ins flourish. The local police know about it, of course, but there's very little that can be done. For all those reasons, these people are here supporting the bill.

**Mr Mammoliti:** You'll know my stand on what's happened around public housing and the policies around public housing in our community. Public housing has cleaned up its act to a degree, especially when we talk about security. They've got the cameras in the lobbies. They've got the locks fixed on a regular basis. They have windows and broken glass fixed on a regular basis. Would you agree that the problem that we're experiencing now, in 1993-94, has been some of the privately owned buildings that exist in the community, and that's why Bill 95 is important to us in our community?

**Ms Augimeri:** I don't think my office has had a complaint of a similar nature for an MTHA project. They've only come from the privately owned buildings.

**Mr Daigeler:** Thank you for appearing before the committee. You're representing yourself today, I presume. You're a Metro councillor, right?

**Ms Augimeri:** Yes.

**Mr Daigeler:** You're here on your own behalf today?

**Ms Augimeri:** I was elected by quite a few people.

**Mr Daigeler:** No, my question is, you are not here—

**Ms Augimeri:** Representing a group? No.

**Mr Daigeler:** —speaking officially for either your municipality or the Metro council.

**Ms Augimeri:** No.

**Mr Daigeler:** That raises the question in my mind why we don't have anybody here from the municipal level where this bill is supposed to take effect. Here is something that the municipality will have to do and we haven't heard at all from it what it thinks about it. This strikes me as highly unusual.

**Ms Augimeri:** You mean North York didn't send a representative to your committee?

**Mr Daigeler:** No.

**Ms Augimeri:** I'm surprised.

**Mr David Johnson:** I wonder if they know about it.

**Mr Daigeler:** We have heard nothing about it, and you're the only politician who has come. That's my question: Are you representing North York or whatever?

**Ms Augimeri:** I'm very surprised.

**Mr Daigeler:** Normally you'd like to hear from the people who are supposed to do the job whether they're prepared to do the job and how they feel about it. I find that a very serious problem and I'm wondering whether you'd like to comment on this. Have you heard from the municipality at all?

**Ms Augimeri:** On today's hearings? No.

**Mr Daigeler:** And on the item? Are they willing to accept this responsibility, as far as you know?

**Ms Augimeri:** I have to clarify that I'm not part of North York council. I haven't been for years. I'm part of Metro council. It's the regional council.

**Mr Daigeler:** That's the area you represent.

**Ms Augimeri:** That's right.

**Mr Perruzza:** On a point of order, Mr Chair: It's my understanding that the city has sent a letter. The bylaw enforcement division of the city of North York—

**The Chair:** What is your point of order?

**Mr Perruzza:** —has sent a letter supporting the bill. That's the point.

**The Chair:** That's not a point of order.

**Mr Daigeler:** The area that you represent doesn't take in some of that municipality?

**Ms Augimeri:** All of it.

**Mr Daigeler:** I'm from Nepean. I'm just wondering—

**Ms Augimeri:** Oh, let me explain.

**Mr Daigeler:** —whether you happen to know how the city feels about this.

**Ms Augimeri:** My ward is situated within the city of North York, totally.

**Mr Daigeler:** How does the city feels about it?

**Ms Augimeri:** Through the specific examples I mentioned in my presentation, I know they felt very frustrated that they couldn't do what they wanted to do, the people in the bylaw department, and I know that they were frustrated that it was taking a very long time, which is something that Dave Johnson brought up earlier.

**Mr Daigeler:** But you wouldn't know how the council feels about it.

**Ms Augimeri:** No.



**Mr Turnbull:** On a point of order, Mr Chair: I will comment to Mr Daigeler that I have a letter—

**The Chair:** No, what's the point of order?

**Mr Turnbull:** —from Mayor Mel Lastman—

**The Chair:** You know that's not a point of order, Mr Turnbull.

**Mr Turnbull:** Well, I'm answering Mr Daigeler's question then.

**Mr Anthony Perruzza (Downsview):** It's a clarification. I think he should be allowed to do it.

**Mr Turnbull:** I think it is germane to this discussion.

**The Chair:** That may all be true, but it's not a point of order.

**Mr Perruzza:** Let's have unanimous consent to hear from Mr Turnbull on this.

**Mr Turnbull:** Can we have unanimous consent?

**The Chair:** Mr Daigeler, you have about a minute.

**Mr Daigeler:** That's fine.

**The Chair:** Thank you very much for appearing before the committee today.

**Ms Augimeri:** My pleasure.

**The Chair:** We will be taking this bill up very shortly clause by clause.

**Mr Daigeler:** On a point of order, Mr Chair: Since some members have referred to something from Mr Lastman—I have not received anything from Mr Lastman. Has anybody else?

**Mr Turnbull:** Yes. I have a letter—unfortunately I don't have it with me—stating that he believes it would be appropriate to have this legislation province-wide.

**Mr Daigeler:** Mr Chairman, the point really is our committee. What individual members have really is of no interest here. The committee has not received a formal communication from the city of North York.

**The Chair:** Not that I am aware of.

**Mr Daigeler:** Okay. Thanks, Mr Chair.

**Mr Mammoliti:** I will take it upon myself to hand out copies as early as I can to members of the committee. I know that Mr Perrone, who is the bylaw enforcement individual at North York, has sent out a letter to all of us that clearly indicates support for Bill 95. Also, we have Maria Rizzo, who is a councillor and who has given me an indication that she is quite prepared to put a motion at the North York level to create such bylaws in support of that.

**Mr Daigeler:** My question has been answered.

**Mr Mammoliti:** Your question has been answered, so there's no need for me to go on.

**Mr Daigeler:** No. I think what you're trying to do now is the clause-by-clause debate. As far as the committee is concerned, we have not received a communication. That was my question.

1510

**Mr David Johnson:** I have a question of Mr Mammoliti, who's raising this bill, which is on the same topic. I wonder if you would describe to us the steps you took in terms of working with the city of North York,

since this is a piece of legislation that affects the city of North York. I'm sure that on anything that impacts on the municipality, you'd want to work very closely with the municipality, so perhaps you would tell us what steps you took to develop this with the municipality in question. I know that I talked to the mayor's office myself, but this was a couple of weeks ago, I guess, and they didn't seem to be too aware of it. But you must have worked with the municipality somehow, so perhaps you could tell us—

**Mr Mammoliti:** The invitation went out to the municipality. The invitation went out to the city, to Mr Perrone, who of course runs the department and runs up against these problems on a regular basis. The response I got from Mr Peroni was that he was in favour of Bill 95 and that he and the bylaw enforcement officers encourage Bill 95 to pass. That leads me to believe that, as it stands and as the bill is structured, North York is in favour of it.

**Mr David Johnson:** North York being in favour would be more a political decision than a staff decision. I wonder if you could tell us what steps you took in terms of communicating with the council of North York. Did you write, for example, to the city clerk to have the council alerted so that you could have political input on this?

**Mr Daigeler:** On a point of order, Mr Chair: Since we are really sort of in an in-between thing, I think it would be proper to move to clause-by-clause, and then I think this conversation would be quite in order.

**Mr Mammoliti:** Yes, I agree.

**The Chair:** I think that would be appropriate. One of the things the committee might consider, and we really haven't scheduled it, is an opportunity for an opening statement by Mr Mammoliti and an opportunity for response by the critics at that point. This being a private member's bill, the procedure is a little bit murkier, shall we say, than on a normal government bill.

Maybe that might be an appropriate way to proceed before we get into the actual clause-by-clause consideration of the bill. If that's agreeable, Mr Mammoliti, would you like to make some opening remarks?

**Mr Mammoliti:** Very quickly, over the last few years, we in our particular community—I know it to be a fact that other communities have experienced similar cases where vital services to tenants in buildings have lapsed. In this case, in these hearings we hear that people want the definition of "vital service" to be amended to include security.

In some of these areas, not only do tenants feel that this is necessary and that this bill is necessary, but the home owners around the buildings as well feel that this bill, as Councillor Augimeri has stated, would clean up not only the buildings but some of the problems that exist around those buildings.

I believe there's a point to be made on those suggestions and that we can't continue with the status quo. We cannot afford to leave everything up to the municipalities when it comes to legislation. They're not able to deal with it unless this bill goes through. What this bill does is permit the municipality of North York, at this point, to

pass bylaws that would mean the guarantee of vital services to the tenants.

If the amendments go through, it would mean the vital services to home owners around those buildings as well, and to the tenants. For that reason, there is really no need to continue a huge debate about this. I think everybody at this table agrees that we need to give the municipality the authority, the right to pass these bylaws, and unless we give them this power, I'm not sure it'll happen.

Some have said and will say that it's up to the province to come up with this legislation. Some will argue that it's up to the minister to deal with this. I can assure you that I too have talked to the minister about this and that I agree: It should be a provincial piece of legislation. I'm going to continue saying that. However, I haven't seen much action at the provincial level in and around this, and I think the number of pieces of legislation that are going through the House at this point is a reason for it. For that reason, I had to come up with something that would meet the needs of our constituents in Yorkview in the municipality of North York. I'm hoping that you can see why this is important to us.

I would be supporting any amendments that would come forward to expand it to include the rest of the province, but at this point it's the community that I'm here to represent. I've taken what I think is my right as a member in the form of a private member's bill that would deal with the problems that exist within our community. This is the only forum I have, as a backbench member, to do that and I hope I have the support of the members. I know the majority of you support the private member's bill even with the amendments, but I hope you can understand that while some of you have a concern with the ministry, perhaps you should be taking that concern up with the minister and the ministry itself and not jeopardizing a positive step to the municipality in North York.

I know that London has passed a similar bill, and Ottawa, I believe, has passed a similar bill, if I'm not mistaken, and they seem to be happy with it. I'm hoping that this bill will pass and help the people and the residents of North York—not only the tenants, as I specified earlier—and that on any other concerns people might have about provincial jurisdiction, maybe we should be taking that up with the minister and not getting all bogged down and cloudy about who's responsibility it is. It's my responsibility as the member for Yorkview and as one of the MPPs for North York to make sure tenants are represented, and in this case even home owners are represented in this piece of legislation.

I'll leave it at that and we'll get into some clause-by-clause. I know there are some amendments that we need to talk about. We've heard some concerns from witnesses here today. I think that for the most part everybody's in favour of most of them and I think we can get through this fairly quickly.

**Mr Daigeler:** Just very briefly, even though I'm not the critic on this particular item, I think Mr Mammoliti's quite right. This is a private member's bill, so I think he is to be congratulated on putting this forward. He's doing well to put forth a concern that's obviously present in his

riding and to try to address it within the framework of his responsibility as a member. That's praiseworthy and I'm quite prepared to support that.

The only concern I had, and I voiced that a little bit earlier through the hearing process, is that I would have liked some official—and I say "official"—comment from the city to have it at least on the record which way they feel. Frankly, the only people who could speak for the city are obviously either the mayor or somebody who's mandated on behalf of council to speak for the city. I don't think an individual letter from a bureaucrat, as it were, would fit the bill. Presumably, if they were really opposed, then probably they would be here, so I take it that their absence is at least tacit agreement with what is coming forward.

Nevertheless, I still would have liked the city to appear and say how it feels about this, because it will have to implement it. It gives them responsibility, and if they balk at it, then what good is the whole thing? But I don't want to hold it up because of that. I'm just expressing a desire, that's all.

I did want to ask, if that's proper—Mr Mammoliti can perhaps respond at the end—did this bill that Irene Mathysen had proposed go through the House? Did that receive third reading or was that just at committee?

**Interjection:** Bills and regs.

**Mr Mammoliti:** No, it did.

**Mr Daigeler:** That was a private bill?

**Mr Mammoliti:** Yes.

**Mr Daigeler:** Oh, it was a private bill. That's a different thing than a private member's bill.

**Mr Mammoliti:** It was a private member's bill; I'm sorry. It was her private member's bill and there was another one in Ottawa that was passed, the Ottawa vital services act.

1520

**Mr Daigeler:** I think the one on Ottawa is a private bill, which is a different thing than a private member's bill. A private bill gets advertised across the whole province and so on. It's a different process. When you are saying "bills and regulations," that's a different committee; that's a very different thing than a private member's bill. Perhaps it could be clarified later on what kind of a bill that was. I'm asking that because that may affect the likelihood of the government supporting this bill or refusing to. Anyway, I'll leave it. We may be able to hear about it later.

**Mr David Johnson:** Just on that last point, I'm still less than a year into this House, but I was on the bills and regulations committee when Irene Mathysen's bill came through. It wasn't her bill, but she was sort of sponsoring it as the person there from the city. It was approved but I think, as Mr Daigeler has pointed out, it was a private bill. I'm not sure if that's material or not. Having said that, I see our lead person is here so I'll make my comments as we go through this and turn it over to Mr Turnbull, who's arrived, if I can do that.

**Mr Turnbull:** It's quite abundant from the responses that we've had from the people coming forward today



and also from the response we've had from AMO and TAPSO, that there is broadly a consensus that it would be appropriate to have this legislation apply to the province, and indeed it is my understanding that there is support from the government members in this committee.

It has come to my attention that there are some problems with the way the amendments have been drafted and perhaps with the way in which the original bill was drafted for Mr Mammoliti. In view of that, and I know we have a later date this week for finishing off clause-by-clause, I will be asking for unanimous consent that we stand down consideration of my amendments until that time. I will have some amendments to bring forward somewhat different to the ones I brought forward today which we believe will be able to address some of these concerns and make it province-wide in its scope. With the goodwill of the committee, I believe we can achieve the desired results expressed by the witnesses.

With that in mind, I would just comment that the chief of legislative counsel for drafting legislation is sitting beside the clerk at this moment, if we want to have any questions to him as to the appropriateness of this.

**The Chair:** Does that complete your comments, Mr Turnbull?

**Mr Turnbull:** Yes, and I would hope I would get support, unanimous consent, from the committee for this.

**The Chair:** Is there someone from the government side who wants to make any kind of an opening statement? Mr Mammoliti, would you like to conclude your remarks?

**Mr Mammoliti:** I note, Mr Turnbull, that you've asked that the committee consider standing down all your proposed amendments at this point.

**Mr Turnbull:** The reason for that is because I believe that the amendments with which we can come forward will be relatively simple and will do two things. Number one, they will fix up some of the problems with the bill as drafted now, your bill, because there are some clauses which are in conflict with one another and in fact with the Municipal Act. As well as that, I believe we can more elegantly approach the question of making this province-wide in its scope.

**Mr Mammoliti:** Is there any way we can do that this afternoon or do you need that couple of days to deal with it? It's my understanding that we want to try and expedite things if possible.

**Mr Turnbull:** I've just been speaking to the head of legislative drafting, who is sitting beside us now, and perhaps he could answer that. He believes he needs until Thursday.

**The Chair:** Maybe I could be helpful as the Chair—

**Mr Turnbull:** Perhaps you could be.

**The Chair:** —just to indicate to members that it's not possible to stand down something that hasn't been put.

**Mr Daigeler:** That's a good point.

**Mr Turnbull:** You silver-tongued devil.

**The Chair:** Therefore, as we go through the bill clause by clause, when we come to a clause where you may wish to offer an amendment, it is possible at that

time to ask not that the amendment that you're not going to make be stood down but that the section be stood down.

**Mr Turnbull:** Okay.

**The Chair:** I should remind the member that this requires unanimous consent of the committee and it would have to be done on a section-by-section basis. As I call the section, someone would have to ask for the unanimous consent and the committee would have to grant it. Is that helpful to you, Mr Turnbull?

**Mr Turnbull:** Yes, it is. Thank you, Mr Brown.

**Mr Fletcher:** I guess we're ready to go into clause-by-clause then. Could we take a five-minute recess? Is that okay with everyone? I just need about five minutes.

**The Chair:** I think that might be a good suggestion. Is everyone agreeable to a short recess? We will reconvene the committee at 20 minutes to 4.

*The committee recessed from 1526 to 1541.*

**The Chair:** The committee will come to order. We are now to commence clause-by-clause examination of Bill 95. We'll start with section 1. Are there questions, comments or amendments?

**Mr Mammoliti:** Which section are you on?

**The Chair:** Section 1. The first one I have is Mr Turnbull.

**Mr Turnbull:** I move that the definition section of the act be amended so that the definition of "city" is amended by adding the words "and all other local municipalities throughout the province" after the words "North York."

After the discussions we've had, while I would like us to debate the merits of this, I would hope that we could revisit the specific wording after legislative counsel has a chance to polish the wording a little bit. As agreed, we could do that on Wednesday afternoon.

**The Chair:** Thank you, Mr Turnbull. I, however, am compelled—

**Mr Turnbull:** You're going to say there is no agreement.

**The Chair:** —to rule the amendment out of order because it goes beyond the scope of the legislation that was presented at second reading.

**Mr Turnbull:** It's quite clear from all of the presenters today and indeed from AMO and TAPSO that the thrust of all these groups is that it should be province-wide. It seems to be fundamentally wrong—

**Mr Daigeler:** Are you allowing debate on this now?

**The Chair:** I wasn't quite clear what Mr Turnbull was attempting to debate. Obviously, he cannot debate the ruling. If he's debating section 1, that's a different story.

**Mr Turnbull:** I think it is important that it be put on the record that there is a clearly stated need for this to be provincial in its scope.

**The Chair:** So you're speaking to section 1 then?

**Mr Turnbull:** Yes, I'm speaking to section 1. We really should be making this change. I believe it would be appropriate, if you're ruling this out of order, for us to

ask for unanimous consent from the committee for support to change this to being province-wide. I would ask unanimous consent.

**The Chair:** What you're asking for is unanimous consent to find your amendment in order?

**Mr Turnbull:** In essence, yes.

**The Chair:** Do we have unanimous consent?

**Mr Daigeler:** Mr Chair, I think what we're doing here is highly unusual and I really would wish that we proceed in the way we normally proceed, which is that you ask for comments and questions on section 1 or whatever it is.

**The Chair:** It is permissible for him to ask for unanimous consent. I will now ask for—

**Mr Daigeler:** He hasn't really. He said "in essence," or whatever. I'm not clear at all what we're doing right now. What are we on right now?

**The Chair:** The Chair understands Mr Turnbull to have asked for unanimous consent.

**Mr Daigeler:** First of all, are we in the debate on section 1?

**The Chair:** I think Mr Turnbull has reverted to speaking about his amendment, which he is asking the unanimous consent of the committee to find in order. Is that correct, Mr Turnbull?

**Mr Turnbull:** That is correct, Mr Chair.

**Mr Sean G. Conway (Renfrew North):** Could I speak to that? I apologize for being late this afternoon, but I want to say just a couple of things. I think this process is a good one in the sense that we appear in this Parliament to be moving in the direction of a larger than usual number of private members' bills making their way through the system and becoming the law of the province. I suspect that Bill 95 may reach a similar fate, though I'm not yet sure.

I appreciate what Mr Turnbull is about here and I know of his interest in these matters, but quite apart from how we feel on the subjects before us, I do think that as legislators we have an obligation to be fair to all concerned. I see before me, and I certainly have had an opportunity to talk to my colleagues who heard the representations earlier today, that all of the deputants are from the Metropolitan Toronto area, as you would expect on the basis of the bill currently before the committee, Bill 95, which is specifically An Act to provide for the passing of vital services by-laws by the City of North York.

Mr Turnbull has made the point that this is a policy we might and should apply to the entire province. Indeed, we might wish to do that, but this would not be the way, I would respectfully submit, to do this. There are presumably tenants' groups and landlords in communities like Northumberland and Durham region and Renfrew county and Simcoe county and the regional municipality of Ottawa-Carleton that would have an interest in and have a right to attend at a legislative committee where such a change might be made province-wide so that they could have their views expressed.

It may very well be that I would want to support such

a policy across the province, including the county of Renfrew and the city of Pembroke, though I'm not at all able here today to make that judgement, simply because I have not had the opportunity to canvass the people of my county and my region with respect to the efficacy of such a policy.

To take a private member's bill and by virtue of a unanimous consent apply the principle of the private member's bill province-wide without notice seems to me extraordinary and in my view would be unprecedented, though the principle of the honourable member's intention may be something we would want to consider for province-wide application. That I simply do not know. But I have to tell you that I would personally, strongly be very disinclined—I'd be opposed to giving unanimous consent on procedural grounds. I think the Chair is absolutely right in ruling the motion, however well intentioned and however right the policy might be, out of order because the procedure is, I think, unprecedented, unfair and unacceptable.

**Mr Daigeler:** In addition to what my colleague just said—obviously the Chair will have to rule on that—I would consider it ultra vires for a committee to declare by unanimous consent what the House has set up for the committee. Perhaps the Chair could clarify for me, because he hasn't spoken yet, whether he is accepting this particular motion, because I cannot see how we as a committee could unanimously change the due process rules of the House. Frankly, even if you were to rule that this would be acceptable, I think I would ask for a higher authority to clarify this because I personally would consider this ultra vires.

1550

**The Chair:** Thank you, Mr Daigeler. I understand, although I am unable to cite the particular cases, that this has been done. There is a precedent for committees asking for unanimous consent. Therefore, it is in order and I will now ask for the unanimous consent.

Shall the committee grant Mr Turnbull unanimous consent to place his amendment? There is not unanimous consent.

Back to section 1.

**Mr Mammoliti:** I move that the definition of "vital service" in section 1 of the bill be struck out and the following substituted:

"'Vital service' means fuel, electricity, gas, hot water, water, steam, security measures such as locks and any other means by which security or surveillance may be maintained, pest control and garbage removal; ('service essential')"

I think it's quite clear that people who were in front of the committee and represented certain parts of North York and certain organizations in North York have experienced a number of difficulties. Of course, fuel and electricity and gas and hot water have been an ongoing concern of the municipality, and the services provided by landlords, or the lack of service in those areas. What we've also heard today was that they'd like the definition to be expanded to include areas such as security, for obvious reasons, and pest control. Of course, garbage



removal has come up frequently today as well, that being a problem in the municipality.

For those reasons, I think it's within our jurisdiction and I think we should be looking at amending. I agree with the amendment to include the expansion and of course to include security and pest control and garbage removal.

**Mr David Johnson:** First of all, and I guess in terms of speaking to this particular aspect, I would like to say that I am supportive of the bill that is before us. The bill was put together to deal with vital services that had come forward in a couple of situations and there needs to be this type of thing.

I myself have talked with the mayor's office in North York. I think it's a pity that the political aspect of North York wasn't brought into this in a broader sense, and I can only say that. I'm going to give you compliments that there may be a few technical problems but other than that it's a good bill, and it should be supported. On the other hand, it's too bad that when an affected municipality is involved, they weren't in from ground one to have the opportunity to work with this and have input in it etc. They were invited, as I understand it, through a staff member. There was no official correspondence to the municipality, and that's the proper way to do it. Any other invitation does not count. The only invitation that counts is through the clerk of the municipality, through the mayor's office, to invite proper consideration through the city.

However, having said that, now we're starting to wander into areas that I have some doubt about and I haven't had a chance to think out. One aspect I'll ask you about, Mr Chairman, is that the bill itself is entitled "Vital Services." You have ruled out of order Mr Turnbull's motion because it goes beyond the scope of the bill. Do you get into ruling whether garbage or pest control, for example, is a vital service? Does that go beyond the scope?

There's certainly the Metro tenants' federation that was here this morning. To quote their actual words, if I have it here, they indicated that garbage is not life-threatening, and that response certainly left me with the impression, and I think those of us who were listening, that they didn't consider garbage to be in the same vein as the gas, the electricity and the hot water—well, certainly gas and electricity at any rate, and that sort of thing.

I guess one question that comes up is, does it fit the title of the bill? Even if the answer to that is yes, I still have other questions as to how this pertains. The other vital services—the fuel, the electricity, gas, those sorts of things—are generally supplied by a third party. So I think the bill is kind of set up in that vein. For example, in section 4, we talk about a supplier. Who supplies the security, for example? It's the landlord that supplies the security. Maybe those who are drafting the bill will say if there's a technical problem there or not or if you can just be liberal—small-l liberal—and read that in the spirit it's intended. But as you broaden these things and just throw them in, you run the risk that what you're throwing in just doesn't make any sense and can cause problems with the rest of the bill.

Thirdly, how do you measure security? We've had one or two suggestions here this afternoon from the last deputant, but bear in mind we're dealing now, after Bill 120, with basement apartments, we're dealing with duplexes, we're dealing with sixplexes, we're dealing with small apartment buildings, we're dealing with huge apartment buildings. This would presumably give all—well, just North York, I guess, since we've cleared that issue. This would give North York the power to then provide that any of those would have to have a camera system or a person on surveillance or some fully functioning security system or whatever. It just leaves me a little bit queasy that there isn't some good definition of what we mean by "security system" and how it applies to all these different categories of situations.

Again, garbage: How are we going to define garbage removal? I presume you're sort of leaving it up to the municipality and whatever it says, whatever it chooses to implement on a single-family home that has a basement apartment or on a high-rise apartment building that has 500 units in it or anywhere in between is okay.

In the area of pest control, how do you define that? Anybody who's been involved with any size of apartment building will know that it is totally impossible to ensure that all cockroaches will be removed under any circumstances.

**Mr Mammoliti:** They have them in basement apartments too.

**Mr David Johnson:** And basement apartments too, probably. Cockroaches will hide—

**Mr Daigeler:** Especially North York cockroaches.

**Mr David Johnson:** —in the smallest little crevices, they'll hide in the garbage chutes, they'll hide everywhere. You can fumigate 100% of the units in an apartment building and you can't get rid of them. They'll be back. It's only a matter of how long it's going to be before they come back.

One of the problems many landlords face is that a number of tenants will refuse to have the treatment. They are against chemicals. A lot of people in this day and age are against chemicals. They don't want the chemicals in their apartment no matter what you say about how safe it is or whatever. They refuse to have the treatment. All you need to do is to have a little family of cockroaches hiding in that unit and, bingo, it's just a matter of days before they're spreading back through the apartment.

To have the electricity on or off is definable. It's quite easy. It's either on or it's off. To have the fuel, it's either on or off, that sort of thing. That makes sense. But the other things you're plowing in here are a hundred shades of grey, and I just don't know what that means. I don't know how municipalities—in this case North York, but presumably this is going to be a model at some time that we're going to be looking at across the province of Ontario. I would have to consult with North York before I could support an amendment like that.

I think it would be preferable to deal with the bill in the form it was brought forward, in the spirit it was brought forward, with the real vital services, to deal with that, and then if we're talking about something broader



and if we're talking about something across the province, to have those kinds of discussions and consultations with municipalities and AMO and that sort of thing and deal with that when we know what we're talking about precisely.

I don't know if there's anybody here from staff who can respond to those kinds of concerns. I would certainly appreciate it if there was.

1600

**The Chair:** To be helpful, just to clarify it in your mind, I believe the amendment to be in order but it does raise some questions in the Chair's mind about what other acts of the province of Ontario regarding rental accommodation might be impacted. It strikes me there may be. Maybe legal counsel could be helpful, or maybe you can't.

**Mr Donald Revell:** I wish I could be, but I don't think I can in the circumstance.

**Mr Mammoliti:** David, I wish that I could pull out some of your speeches on the issue of basement apartments or accessory apartments, where you talk about local autonomy and where you argue that the grass-roots decision needs to be made and that municipalities need to determine certain things and how they do things. Here in the five-minute speech that you just gave you were speaking completely opposed to what you're saying on other bills and what you're arguing on other bills.

What this does is give the municipality the right to look at and the right to implement bylaws around these areas. You heard for yourself today that tenants are concerned about garbage, but in a much broader sense than what you might think garbage might mean.

Garbage can mean a number of things. We heard deputants today talk about situations in my community and in North York where garbage removal to them means the removal of needles from play areas and condoms from driveways and from areas where children play. This is the type of garbage that you've heard today needs to be addressed. If you think that it should be more specific in terms of the language, then I'd be prepared to look at it being a little more specific. But this is the type of thing that you heard today being a problem in North York, being a problem in areas I represent.

In terms of cockroaches, Mel Lastman talks about cockroaches being bigger in basement apartments but that's just, I think, an ongoing joke that we all talk about. Cockroaches and the extermination of cockroaches in this piece of legislation in no way would say that any landlord would be incumbent on getting rid of the cockroach problem. We all know it's almost impossible to do. But what this does is it sets out what I think is a fair process for the municipality to be able to determine even the types of chemicals, for that matter, that are going to be sprayed in buildings. We may even be giving the municipality the right to determine a health and safety concern that many tenants have with this piece of legislation.

I hope that you're listening to this argument because I think it's important. On the one hand you're saying on other pieces of legislation that we need to be paying attention to local autonomy and their particular rights as

a municipality, and in this particular case, after deputant after deputant saying they want it to pass and want it to pass with the security component attached to it, giving them the right to do it at the local level—you had a councillor talking about that, giving them the right to do that at the local level—I can't understand why you would be opposed to such an amendment.

**Mr David Johnson:** I've got to reply.

**The Chair:** There's generally, in clause-by-clause, a give and take between the person posing the question and the person responsible for answering it.

*Interjection.*

**The Chair:** Mr Daigeler, your turn is coming.

**Mr David Johnson:** I'll only point out again, and I'll try to do this briefly, that North York was not, to my knowledge, officially notified of this bill. They may have been sort of indirectly through some staff member or something. I quote AMO's letter of February 9, "Unfortunately, we were only recently made aware of this bill." They go on to say, "We would have appreciated a more lengthy notice period and therefore an opportunity to make more detailed comment."

I'm not even sure who they're attributing the fact that they were notified. I certainly called them up and I know David Turnbull contacted them, and I think there was one or other of our contacts who did that.

My point is, and I think I made this earlier, that if you're making changes that are significant you should go out and have the consultation. I think Sean Conway actually alluded to that earlier. You should have the consultation with the municipalities. We are making changes on the fly here. The member who's putting the bill forward is indicating that we're giving municipalities various authorities, but the fact is we're not consulting with them and that's what I'm saying we should be doing if you're going to make serious changes. We had no representation here today from any local municipality. Not one local municipality was represented here today. Certainly North York wasn't, not one municipality, so none of them are aware of this, and particularly North York in this case has not been fully involved.

Yes, we should give municipalities authority. I agree with that, but it should be done after we have consultation, and that's not what's being proposed here today. There's just all sorts of stuff that's being thrown in without any consultation whatsoever.

**Mr Mammoliti:** David, this is permissive legislation. It's totally up to the municipality and how it wants to deal with the bylaws. There's also precedent around this, and again I can't understand why you would be opposed to it. It's giving them the opportunity to decide on their own bylaws in North York. You heard today many of the representatives in North York, both home owners and residents of high-rise buildings, who have a concern and wanted these amendments placed.

**Mr Daigeler:** I think Mr Johnson really put on the record quite well already why some of the proposed parts of the amendment are not very good. One point I want to make in addition is with regard to security and surveillance, making that part of the vital services.



The question was asked earlier of the Metro councillor who was here whether she would accept that as a chargeback to the tenants and whether the cost for all this would be acceptable under the rent review legislation, and she said yes, she would. Well, she would, but would the government? We have obviously no guarantee whatsoever that these would be costs that would be permissible and to what extent they would be permissible. Frankly, I am extremely hesitant to put the whole area of security on the back of the landlord. I think it's a very dangerous precedent.

I can understand the problem. Certainly the people who came here identified a serious problem. I'm not quarrelling with that in the least, but the question is, is it the role and responsibility of the landlord to be a policeman—that's where I have some very serious questions—and who pays for that? Is it the problem of the landlord if there's drug traffic?

I'm not saying that the drug traffic is no problem. That is a problem, but I think that's a problem for the police and that's perhaps a problem for the government. I don't think it's fair to say that the landlord, out of his or her costs, has to assume the social problems, as it were, that we're experiencing in the province. Unless I have really ironclad guarantees that the government is going to reimburse this, where the landlord would, I'm not prepared to enter into that arena where all of a sudden the landlord would become responsible for security. He or she may offer that as a bonus to the tenants, but on principle I think that's a responsibility of the police and of the government but not of the landlord.

That's why I like the way the bill is put forward and why I don't favour this particular amendment even though I understand what the deputants said and what Mr Mammoliti would like to see happening with this amendment.

1610

**Mr Paul Wessenger (Simcoe Centre):** I don't know whether anybody can provide this clarification for me, but I think it would be relevant to know, under the property standards legislation, for instance, to what extent a municipality could provide—for instance, with respect to security and surveillance, does it have the right to prescribe certain requirements as to security? The other thing is that I would assume garbage removal would be something that is covered under property standards legislation now. Pest control I assume would be covered under health provisions. I'd just like some clarification if that's the case.

**Mr Mammoliti:** I can clarify it in terms of an experience. The experience, under all of the three, in North York has been that the process that exists at this point doesn't seem to be working. This comes even from some of the municipal representatives I've spoken to. In a lot of cases it's a lengthy process and it might take that extra few days or extra few months to deal with it in terms of the getting something done. This process will give the municipality the right to create bylaws around these areas. It's an expedited process and it's something that makes the community happy: local autonomy.

**Mr Mills:** It would seem to me that at this point in

time in the discussion we are going from point to point and round and round. It would also seem to me, in my experience, that in all probability it looks like this amendment won't carry. In view of that, if that happens, I suggest we call the vote and I have another amendment to make if this is defeated, and hopefully this issue will be resolved.

**Mr Fletcher:** To this section.

**Mr Mills:** To this section.

**The Chair:** That's fine. I still have Mr Turnbull and Mr Johnson.

**Interjection:** Are you calling for a vote?

**The Chair:** He didn't say.

**Mr Conway:** If we do this right, we can make the Chairman earn his money this afternoon.

**Mr Turnbull:** One of the concerns I have with this amendment, and I alluded to it during the questioning of the witnesses, is the question of surveillance. First of all, this bill doesn't take any account of the ability of the landlord to be able to charge back for extra services that they would be providing, and it also doesn't adequately reflect the fact that there are all different sizes of buildings. Are we suggesting that we would have television surveillance of a sixplex? The amendment doesn't speak to this at all and that essentially is something that any tenant would be entitled to.

If this bill were passed with this amendment in it, tenants would be entitled to ask for surveillance as part of the basic package they were paying for and yet there's no reflection of the cost.

It's also pretty unrealistic in the sense of, who's going to be manning the monitors? Let's not just take the sixplex; let's take a building with 25 units, and there are lots of 25-unit apartment buildings around. It's normal with a building of that size to have only part-time supervision of the building. There isn't a superintendent on duty at all times, so who would be manning the video monitors? It isn't realistic and it doesn't reflect ability to charge back for that service to the tenants. It's a recipe for disaster.

There's so much discussion in the province, quite frankly from all parties, about the need to get the provincial economy moving. Unfortunately, when we come to landlord and tenant matters, for the last few years it has always been a "them and us" attitude no matter who you happen to be.

Surely we've got to get landlords and tenants back working together again. It isn't the landlords who are throwing out the condoms and the needles in the parking lot. We're going to have to get some reasonable reflection of responsibility from tenants and landlords. You're not going to get it through this kind of amendment, so I'm going to vote against this amendment.

**Mr David Johnson:** Just responding to the question, having come from a municipality not too long ago, I can say by personal experience that we certainly applied the property standards bylaws to pertain to security measures. You will find a number of apartments, and I agree this is a problem, where doors have broken or malfunctioning

locks. More common actually are doors that are propped open. They're propped open on many occasions by the tenants, particularly going out the back way because they may not have a key or whatever, so they prop it open when they go out so that when they come back in some time later, they can get back in rather than having to go around the building.

There are problems that way. The municipality I was in followed up as hard as we could. Wherever there were broken locks, then we insisted that they be replaced.

Garbage: I'm not sure what's meant here. In terms of some of the deputations, it almost seems like it's more of a really bad litter problem than a garbage problem. It sounds like the garbage is in one place but then there are cases of litter outside. I know that in East York has been a problem from time to time and certainly we've applied the bylaws and insisted that they be cleaned up, and you do get action over a period of time. I think municipalities do have authority in that regard. We pursued it in East York, and I would assume that if North York were encouraged, it would do the same thing.

**The Chair:** Further questions and comments?

Shall Mr Mammoliti's amendment to section 1 carry? All in favour? Opposed? Mr Mammoliti's amendment is lost.

**Mr Mills:** I have an amendment.

**The Chair:** Mr Mills has an amendment.

**Mr Mills:** This is section 1. I move that the definition of "vital services" in section 1 of the bill be struck out and the following substituted:

"'Vital service' means fuel, electricity, gas, hot water, water, steam and elevator maintenance service (service essential)."

**The Chair:** Have you got a copy of that, Mr Mills, for the clerk?

**Mr Mills:** Yes. I would like to advise the committee, and I've spoken about my own particular circumstances not only in front of this Bill 95 but also when we discussed Bill 120, that I live in an apartment just handy here where we were denied elevator service. I live on the 23rd floor. I had some discussion with a number of senior citizens in that building and it was pointed out to me their fear of heart attacks and related illnesses. I spoke to the superintendent of the building who advised me that given those sorts of circumstances, they would take steps to freeze an elevator to get someone down to the ground floor to an ambulance.

Nevertheless, that didn't satisfy me. I think we should include the elevators as essential in a building for the safe wellbeing of the residents. I would just like to recognize my discussion with my colleague Mr Paul Wessinger in putting together this amendment.

**Mr Conway:** What we've got then is the "vital service" definition, which is essentially the one in the bill with one item added, and that is elevator maintenance service.

**Mr Mills:** Yes.

**Mr Daigeler:** Why don't you just say "elevator service"?

**Mr Mills:** Well, whatever.

**Mr Fletcher:** "Service" could be just going up and down.

**Mr Wessinger:** It's the maintenance we're concerned about.

**Mr Mills:** Yes.

**Mr Wessinger:** That was the major problem with some of these buildings.

**Mr Turnbull:** I think Mr Mills's amendment speaks accurately to what the intent of the bill was and so I certainly believe we should be supporting it.

**Mr Conway:** I do as well. I'm quite happy to. I live in a public housing unit at the corner of Bay and Bloor and I'm on the 46th floor.

**Mr Daigeler:** He needs the exercise.

**Mr David Johnson:** No wonder you're so slim, Sean.

**Mr Conway:** I'm very sympathetic to the point and I agree with Mr Turnbull. I think it's a good amendment and I'm happy to support it.

**Mr Drummond White (Durham Centre):** I'm happy to support my friend's amendment. It makes a great deal of sense, because after all we can't maintain elevators that don't exist. It doesn't say that elevator services should be available; it only says that those that are should be maintained. It makes a great deal of sense and I think the member's brought forth an excellent point.

1620

**The Chair:** Further questions, comments regarding Mr Mills's amendment? Are all members certain about what exactly Mr Mills's amendment is?

**Interjection:** Yes.

**The Chair:** Good. Shall Mr Mills's amendment to section 1 carry? Carried.

Further questions, comments or amendments to section 1? Shall section 1, as amended, carry? Carried.

Section 2: Questions, comments or amendments to section 2 of the bill?

**Mr Turnbull:** I move that the definition section of the act be amended by adding the following definition before the words "vital service":

"'Other local municipalities' means all cities, towns, villages and townships in the province of Ontario other than the corporation of the city of North York."

**The Chair:** Thank you, Mr Turnbull. That's out of order. Further questions or comments?

**Mr David Johnson:** I'm just trying to find it now but I think the Federation of Metro Tenants' Associations raised the issue of whether "landlord" was sufficiently defined. I'm looking at clause 2(1)(a). It says "requiring every landlord." It's only a question. I don't know if there's any staff here or anybody who can say—how about the legislative counsel? There's no definition of "landlord" and all of a sudden the word appears. Are you happy that there's enough precedent for that?

**Mr Christopher Wernham:** Yes, I think you can take the ordinary meaning of the word and be satisfied that it will convey the intended meaning.



**Mr David Johnson:** That's just an issue that the Metro federation raised, so I'll pass on then.

Another point that they raised was on clause 2(1)(e), where it says "providing that a person who contravenes." I think it was their point of view that here you may have a corporation in charge rather than a person. I don't know. I wondered again if there was any agreement or disagreement on that point that it should read "a person or a corporation." Is it always a person?

**Mr Wernham:** Under the Interpretation Act, the word "person" includes "corporation."

**Mr David Johnson:** Under subsection 2(2), the Metro federation raised the point that it should indicate the current tenant. I think it was their point of view that tenancy arrangements could vary and that the previous tenant might have been responsible for providing services, might leave and then a new tenant might come in and might not be responsible.

I'm looking at the third page of their brief, subsection 2(2) down at the bottom. They say: "This subsection should specify that 'the current tenant' has expressly agreed to assume the costs of the vital services. The current tenant(s) should not be bound by the agreement a previous tenant entered into with the landlord." It seems to me to be a valid point. Do you have any objection?

**Mr Wernham:** No, I have no objection. I would have to consider the material more closely.

**Mr David Johnson:** Can we come back to that?

**The Chair:** It's possible. If the committee wishes, we could perhaps deal with subsection 2(1) of the bill and then stand subsection 2(2) down until we have legal counsel have a look at the proposed—

**Mr David Johnson:** I would ask that we do that. I'm being advised across the floor that it's not a problem, but you never know. Perhaps they could have a look at it. Could we stand that down, then?

**The Chair:** Before we do that, why don't we pass the first part? Shall subsection 2(1) carry? Carried.

**Mr David Johnson:** I would ask that subsection 2(2) be stood down. Do I have to specify until when, until legislative counsel has the opportunity to review the concern expressed by the Metro federation of tenants?

**The Chair:** Actually, it's Mr Mammoliti's choice, but if we would like to stand it down, I need unanimous consent. Agreed.

**Mr Mammoliti:** Until when?

**Mr Wessinger:** Until we finish the other sections.

**Mr David Johnson:** Until 15 minutes from now.

**Mr Mammoliti:** Not until next Wednesday.

**Mr David Johnson:** No.

**Mr Mammoliti:** Okay.

**The Chair:** All right, then we'll deal with subsection 2(3). Questions, comments or amendments?

**Mr Turnbull:** I move that section 2, subsection (3)(b) of the act be amended by replacing the word "municipality" in the first line with the word "city."

All this will do is bring the wording into alignment with subsection 2(1). It says "City council may pass," and

in definitions we're talking about "city." I think this is just a drafting error. It cleans up the wording of the act.

**Mr Conway:** If it's just a matter of technical conformity, then I think it should be supported, and I'm sure that's all it is, but knowing of the member's enthusiasm for a broader application, I wouldn't want to leave anything open.

**The Chair:** Mr Wessinger, did you have a comment?

**Mr Wessinger:** No, I was just going to ask if leg counsel could answer that question, whether it's the proper word. This is obviously a leg counsel drafting matter, leg counsel's opinion. This is at clause (b), "designate areas of the municipality in which the bylaw applies." The motion is to change the word "municipality" to "city." I just want to know whether that's appropriate from a drafting point of view.

**Mr Wernham:** Yes, it would look to be an oversight.

**Mr Wessinger:** It would look to be an oversight. Okay, that's fine.

**The Chair:** Further questions or comments regarding Mr Turnbull's amendment?

Shall Mr Turnbull's amendment to clause 2(3)(b) carry? Carried.

Further questions and comments to subsection 2(3)?

Shall subsection 2(3), as amended, carry? Carried.

**Mr David Johnson:** I discussed this with the legal counsel. I guess it's quite a stretch to think that anything other than to the current tenant would be what would be considered. I think we have sort of jointly concluded that the concern of the Metro tenants' federation is covered by the present wording. If you want 110% sure, you'd put the word "current" in there.

**The Chair:** Do I have unanimous consent to revert to subsection 2(2)? Agreed.

**Mr David Johnson:** I'll just move approval then of subsection 2(2).

**The Chair:** Shall subsection 2(2) carry? Carried.

Shall section 2 carry? Carried.

**Clerk of the Committee (Mr Franco Carrozza):** It should have been section 2, as amended.

**The Chair:** Was there an amendment?

**Clerk of the Committee:** Yes, Mr Turnbull's.

**The Chair:** I'm sorry. As amended. No, that's (3). Shall subsection 2(2) carry? Carried. All right.

Now we're dealing with subsections 2(4), (5), (6) and (7). Are there questions and comments or amendments to those subsections?

Shall section 2, as amended, carry? Carried.

Section 3: Are there questions, comments or amendments to section 3?

If there are no questions, comments or amendments, shall section 3 carry? Carried.

Section 4: Questions, comments or amendments to section 4?

1630

**Mr Turnbull:** I move that section 4, subsection (4) of the act be amended by adding the words "provide the

person otherwise entitled to receive the rent with an accounting of the rents received for each individual dwelling and" after "the city" in the first line.

**The Chair:** And the reason for the amendment, Mr Turnbull.

**Mr Turnbull:** This is just to provide some clear accounting so that people know how the money is being spent.

**The Chair:** Are there further questions or comments?

**Mr David Johnson:** It's kind of hard to consider these amendments when they come at the last minute, but the Metro federation of tenants suggested that it be specified that the notice to the tenants that they make their payment to a city official be in writing. It doesn't specify that here. It may be assumed; I don't know. Probably for their protection it seems to me to make good sense that the tenants would be notified in writing, that there would be some kind of written notice that would go to all the tenants that—

**Mr Mammoliti:** I think that's a given, don't you?

**Mr David Johnson:** It doesn't say that, though, and I think that's not as much a given as the previous one I looked at. That's probably what the author intended but it just doesn't say it here.

They also asked that the notice must specify that "a payment by a tenant under" this section "shall be deemed not to constitute a default in the payment of rent due under a tenancy agreement or a default in the tenant's obligations for the purposes of the Landlord and Tenant Act."

Those words are in there under subsection 4(2), but if you go by the letter here, a verbal notification would meet the requirements of the bill the way it is, as far as I read it and apparently as far as the Metro federation has read it. Consequently, a notice of those exact same words, that if they pay their rent to the city then they won't be in default under the Landlord and Tenant Act, could also be verbal.

I think the tenants' federation just wants to pin this down so that there's no lack of clarity. I don't think there's any harm in that and I think that's probably what was intended at any rate. I'm going to make the amendment that we add the words "in writing" after the word "tenant".

**Mr Mammoliti:** We're debating an amendment already?

**The Chair:** We were debating Mr Turnbull's amendment.

**Mr David Johnson:** Oh. Well, you said any other discussion.

**The Chair:** On Mr Turnbull's amendment.

**Mr David Johnson:** You waited long enough to cut me off.

**The Chair:** You would be surprised. Sometimes the Chair has some problem with relevancy or determining it.

**Mr Daigeler:** Seeing that you didn't want to be interrupted before, Mr Chairman, I thought I would let Mr Johnson proceed, but I don't have any problem with Mr Turnbull's amendment. I think it's only reasonable,

because the city ultimately will have to do all of this and in a law one shouldn't put in too many regulations, but in any case I'm in favour of it.

**The Chair:** Further questions or comments in regard to Mr Turnbull's amendment?

**Mr Mammoliti:** That's fine.

**The Chair:** Shall Mr Turnbull's amendment to subsection 4(4) carry? Carried.

Now, Mr Johnson, I think you had a particular interest in—

**Mr David Johnson:** I won't go through the preamble again.

**The Chair:** —subsection 4(1); is that what it is?

**Mr David Johnson:** I'm just going to put forward, in line with what the Metro federation of tenants has requested, that the words "in writing" be added after the word "tenant" in subsection 4(1), which is in the fourth line.

**Mr Mammoliti:** Sorry, say that again, David.

**Mr David Johnson:** Subsection 4(1) would read "an official named in the vital services bylaw may direct a tenant in writing to pay any or all of the rent." I think their concern was that this could be some kind of verbal thing that could be confused or whatever, because if the tenants had something in writing that would protect them too, you see. They've got it in writing then and there's no confusion. That's the easiest part. Then the next part is they ask that the—

**The Chair:** We're going to deal with one amendment at a time.

**Mr Conway:** Always start with the easy one.

**The Chair:** Do we have Mr Johnson's motion in a definable form?

**Clerk of the Committee:** I have here that Mr Johnson moves that the words "in writing" be added after the word "tenant" in the fourth line.

**The Chair:** Is there discussion of Mr Johnson's amendment? Shall Mr Johnson's amendment carry? Carried.

**Mr David Johnson:** The follow-up to that is that they've asked that—I don't think we need the follow-up to this. I think subsection (2)—see, they've asked us—

*Interjections.*

**The Chair:** Would you let us in on this conversation, Mr Johnson?

**Mr David Johnson:** That's why I say when these things come up at the last moment—all right, I'll quit when I'm ahead.

**The Chair:** Thank you. Are there further questions, comments or amendments to section 4?

Shall section 4, as amended, carry? Carried.

Section 5: Questions, comments or amendments to section 5? Shall section 5 carry? Carried.

Section 6: Questions, comments, amendments? Shall section 6 carry? Oh, sorry, I was a little premature.

**Mr Conway:** Just a question really to my colleagues on the treasury bench: Do we know what Her Majesty's



government feels about this particular measure?

**Mr Mills:** I think Her Majesty's government is very happy—

**Mr Conway:** Favourably disposed.

**Mr Mills:** Yes.

**Mr Conway:** That's my assumption.

**Mr Wessinger:** I think it should be added that there was a previous bill passed for the city of London, very similar, which had no difficulty.

**Mr Mammoliti:** That had security in it.

**Mr Conway:** Just as we conclude this, it does seem, on the basis of what I've been told and what we have heard from the redoubtable Mabel Dougherty, that well-known non-partisan at AMO, that this probably is something that, as Mr Turnbull has indicated, deserves some province-wide application. Is the government considering some kind of amendment to some general statute to give a general power of permission?

**Mr Mammoliti:** In discussion with the Minister of Municipal Affairs, that is the case. I understand discussions are under way within the ministry to find a way of doing that. I'm not sure where that's going to go.

**Mr Conway:** That's good. Thanks very much.

**The Chair:** Shall section 6 carry? Carried.

Section 7: Questions, comments or amendments?

Shall section 7 carry? Carried.

**Mr Turnbull:** Before concluding proceedings—I presume you're going to go to the title of the act now—I would just ask if it would be possible for unanimous consent from the committee to report back to the House the identified need by the presenters, the Metro tenants' organization, AMO and TAPSO, that this should be province-wide legislation.

**The Chair:** I'm not sure what you just attempted to do, Mr Turnbull.

**Mr Fletcher:** In your report to the House, he wishes that you would say—

**The Chair:** No, that would be out of order.

**Mr Conway:** But I think we could certainly agree, and I'm no expert—

**The Chair:** Order. Shall the bill, as amended, be reported to the House? Agreed.

**Mr Turnbull:** Why would that be out of order?

**The Chair:** The standing orders require the Chair—

**Mr Turnbull:** Perhaps Mr Conway could clarify this issue, being the senior politician here.

**Mr Conway:** No, I am no hell on this technical stuff. I have great deference to the Chair and his advisers. I think the way that would be dealt with, it seems to me, is on the third reading of the bill when we have an opportunity back in the House to address the question.

I think you make a very good argument that this thing should be clearly identified as an area that calls out for some province-wide action. Your amendments make that point. It's just a question of how you do that. Under the system we've got, given what you want to do, understandably the best way to deal with that is on third reading when the bill is reported back to the full House for final discussion and passage.

**Mr Turnbull:** Perhaps if we were to have a unanimous vote from this committee that that was the thrust of the evidence, it would at least add some credibility in preparing for third reading debate.

**The Chair:** I understand the standing orders require that the Chair report the bill, and that is about the extent of the conversation the Chair can have in the Legislature. I think Mr Conway makes some good points. There are a number of other opportunities. This bill conceivably will still have to go to committee of the whole, and third reading, which will give members of both this committee and members of the Legislature in general an opportunity to put the case that you're advancing.

I think the committee should congratulate Mr Mammoliti on successfully piloting the bill through this process. We will adjourn till tomorrow at 10 o'clock, when we'll take up our colleague Mr Wessinger's bill.

The committee adjourned at 1642.

## ERRATUM

No.	Page	Column	Line	Should read:
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

**\*Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

**\*Dadamo, George** (Windsor-Sandwich ND)

**\*Fletcher, Derek** (Guelph ND)

Grandmaître, Bernard (Ottawa East/-Est L)

**\*Johnson, David** (Don Mills PC)

**\*Mammoliti, George** (Yorkview ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

**\*Wessinger, Paul** (Simcoe Centre ND)

**\*White, Drummond** (Durham Centre ND)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Conway, Sean G. (Renfrew North/-Nord L) for Mr Grandmaître

Fawcett, Joan M. (Northumberland L) for Mr Sorbara

Mills, Gordon (Durham East/-Est ND) for Mr Morrow

Turnbull, David (York Mills PC) for Mr Arnott

### **Also taking part / Autres participants et participantes:**

Perruzza, Anthony (Downsview ND)

**Clerk / Greffier:** Carrozza, Franco

### **Staff / Personnel:**

Revell, Donald, chief legislative counsel

Richmond, Jerry, research officer, Legislative Research Service

Wernham, Christopher, legislative counsel



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## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 15 February 1994

# Journal des débats (Hansard)

Mardi 15 février 1994

**Standing committee on  
general government**

Land Lease Statute Law  
Amendment Act, 1993

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne les terrains à bail



Chair: Michael A. Brown  
Clerk: Franco Carrozza

Président : Michael A. Brown  
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Tuesday 15 February 1994

The committee met at 1003 in the Humber Room, Macdonald Block, Toronto.

## LAND LEASE STATUTE LAW AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE LES TERRAINS À BAIL

Consideration of Bill 21, An Act to amend certain Acts with respect to Land Leases / Projet de loi 21, Loi modifiant certaines lois en ce qui concerne les terrains à bail.

DAVID RICE

**The Chair (Mr Michael A. Brown):** The business of the committee today is to listen to public deputations regarding Bill 21. We will commence this morning's hearings with Ridge Pine Park Inc, Mr Rice. Good morning. The committee has allocated 20 minutes for your presentation. The members always appreciate some time for questions and clarifications.

**Mr David Rice:** I appreciate the opportunity to be here today. I'm here on behalf of our family-owned company called Ridge Pine Park, which owns Wilmot Creek, a retirement community in Mr Mills's riding out in Bowmanville area, also representing Grand Cove Estates, which is up on Lake Huron in Grand Bend, and also on behalf of my father, who's a partner in Sandycove Acres, which is a retirement community in Mr Wessenger's riding just south of Barrie. Basically, I should say that all of these communities represent about 2,000 home sites in the province.

Firstly, I just wanted to say I've been advised that apparently the Ministry of Housing is putting forward 20 or 30 amendments to the bill and I just wonder if it might be appropriate to adjourn the hearing to another time. I don't want to waste your time or the audience's time because I've researched and planned what I'm planning to say to you here based on how the bill is and I gather it's bound to change considerably. More importantly, I guess, is that if there are changes, I think I and probably the people sitting behind me would like the opportunity to have some input into amendments. So I was wondering if it might be appropriate to adjourn and have this hearing at another time.

**The Chair:** Obviously, the Chair doesn't have that particular discretion.

**Mr Rice:** All right.

**Mrs Margaret Marland (Mississauga South):** I just would like to make a comment, Mr Chairman.

**The Chair:** Unless the presenter wants the comments to happen now during his time, it might be more appropriate to wait until the proper rotation starts.

**Mrs Marland:** On a point of order then, could I ask, is Mr Wessenger sitting in that place rather than this place as parliamentary assistant?

**The Chair:** This is a private member's bill. Mr Wessenger is the private member. If it were a government

bill, someone from the ministry would be sitting here to answer questions about it.

**Mr Derek Fletcher (Guelph):** I thought you'd know this, Margaret.

**Mrs Marland:** It's not always the case.

**The Chair:** Because it's a private member's bill, Mr Wessenger is sitting here so he can answer any questions that might arise from the bill.

**Mrs Marland:** It's not always the case.

**The Chair:** On the same point of order, Mr Daigeler.

**Mr Hans Daigeler (Nepean):** Not on the same point of order, but if you permit me to say something to what you just said, because it's your time. I think you're raising an excellent point and you're quite right that obviously if there are very substantial amendments coming forward there will have to be additional opportunity for the public to be heard. Nevertheless, I do think, since you are here and since other people are scheduled to be here, it would be useful, frankly, for me at least, to hear what you have to say about this project. What will happen then—I would quite frankly agree with you that there will have to be further opportunities to study the matter and I would expect that there will be such things perhaps later on through a bill the government brings forward.

However, I do think it would be useful for us to hear what you have to say about the project that had been announced. That's my view.

**The Chair:** I should just point out, as the Chair I'm relatively familiar with this issue, having chaired the committee on Bill 4 and Bill 121 which heard numerous deputations with regard to this issue.

**Mr Rice:** All right, Mr Chairman. I just wanted to raise that and I appreciate the member's position. That's all, I guess, I could ask for.

Specifically, with respect to the bill the way it's proposed today, it deals with the amendments to three acts, the Landlord and Tenant Act, the Rental Housing Protection Act and the Planning Act. Our family and our company—we have no problems with the changes that are proposed to the Planning Act or the Rental Housing Protection Act. Our concerns are with the Landlord and Tenant Act changes, specifically with respect to two areas, and they are with the inclusion or permission to allow for-sale signs within retirement communities and, secondly, with the exclusion or the elimination from leases of the first right of refusal, as it's proposed.

I've got to go back to a little bit of history. In the mid-1960s my dad and his partners started a plan to build Sandycove Acres, which now has about 1,200 homes located in it. In their planning they went around North America, they went throughout Canada, trying to determine what's good and bad because, at that time and a little bit existing today, mobile home parks did not have

a good connotation. They had a connotation of almost a second-class type of living and they wanted to build Sandycove so that it wasn't that way.

They arrived at a conclusion that the biggest problem within mobile home parks was the devaluation of the homes that the home owners owned. It followed that if these homes devalued, then eventually the third or fourth or fifth purchaser of the home might be of a financial calibre that he wouldn't be able to pay the rent to maintain the high standards of the community.

So they came up with a number of ideas to include in our leases, and these all took place 25 years ago and are still being used today—a number of items in the leases, two of which were the exclusion of for-sale signs and the first right of refusal to give the landlord that right. I should say that both of these, along with a number of other things they have done, succeeded. They succeeded in making Sandycove, Wilmot Creek now, and also Grand Cove Estates what we like to think of as three of the best mobile home parks not only in Ontario but in Canada. Certainly, that's been proven by the number of people who have wanted to imitate and copy what has been done.

My dad and his partner succeeded in creating a mobile home park where the tenant had an investment that was secure. That was really the first time we were aware that had happened. So we're very adamant on our position relative to these for-sale signs in particular. You might say, "Well, why?" You have to picture these communities. I have to talk as a community being a retirement community. There are a lot of other mobile home parks that are family communities and I think the committee has to be aware that there are a lot of variations and it's difficult to paint a brush with this bill to apply to everything.

1010

In a retirement community, we sell the way of life. The homes sell themselves; what we sell is a way of life. It's a way of life where the people choose to live in a retirement community like Wilmot Creek because they don't want to live in a condominium. Mr Mills, I'm sure, could vouch as to how the people are in Wilmot Creek. They're friendly. They want to help their neighbours. They want to know their neighbours. That's the way of life we sell.

I want to mention that because when you get into a retirement community, the figures are, from a planning point of view, that the annual turnover of homes in a mature retirement community is 12% turnover per year. In a normal subdivision like most of us probably live in, it's 7%. What that really means is that for the given same number of homes, there are virtually twice as many for-sale signs up. What that ends up doing is, when the purchaser comes in, whether he's coming to buy a new home or a resale home, he's going to see twice as many for-sale signs as he normally would have seen. Whether the signs are on the grass or in the window of the home, the fact is he's going to see these for-sale signs and a little red flag is going to pop into his mind asking, "What's wrong with this place?"

Based on that, it's our feeling, and I think it's pretty

obvious, that homes will devalue to some degree because the market will shrink. There are going to be some of those people who get that little red flag who say: "I'm not going to buy here. There's something wrong."

Similarly, it's like saying—this is exaggerating—that if they permit for-sale signs on the front lawn or in the windows of a condominium building, a person is going to look at it and say, "Well, you know, there must be something wrong there," and they're going to think twice before they buy. That's the main point.

If you turn around and say you are going to permit for-sale signs, you have to remember that in our communities—and I can only speak about our communities—all of the people were well aware when they purchased. You're probably going to hear tomorrow from the home owners who live at Wilmot Creek and Sandycove, and they're going to tell you, I believe, that they don't want for-sale signs. They agreed to that and we think that's part of the reason they choose to live there today.

This has worked for 25 years in our community. I just want to tell you that even though there are no for-sale signs, resale homes outsell new homes five to one at Wilmot Creek. So resale homes are selling. Because there are no for-sale signs doesn't mean they're not going to sell. I've got to keep moving here; it's hard to deal with this.

Another little problem we have—not a little problem, but it creates a complication of this—is that at Wilmot Creek we have 250 lots left to lease or houses to build, and you run into the problem if you put up for-sale signs it's us, as a company, who are advertising and attracting the people to the community, because it is a private community. People coming into Wilmot Creek would not normally go into there unless they were being enticed to come in, whether it's to visit a friend or to buy. Here they'll come in and they'll see a Re/Max, or a Royal LePage, or some sign, and some percentage of them will be lost. That's another wrinkle you've got to be aware of. It's not as easy, as I say, to paint the whole thing with one brush.

With respect to first right of refusal, in a retirement community it's a little different again. In a retirement community we end up having a number of estate sales because of the age of the children who are willed the home and they want to sell the home. Because the rent is going out monthly, there is a degree of saying, "Look, okay, let's sell this thing quickly." We've had examples in our communities where the estate sale has been put on the market at 50% below market value. That obviously affects the couple down the street who are trying to sell their home. In those cases we use this clause. In 10 years we've only used this clause 12 times at Wilmot Creek, so it's like an item that's blown out of proportion. What we do is we step in on that estate sale if it's below value, refurbish the home, put it back on the market at value and now the couple down the street is once again competitive.

The other example is that as a retirement community, and as it becomes older, now and then you get an individual, say a husband, who's the remaining person in the home who may not have the health or the financial means or the desire to maintain his home properly. That



happens. I know with my grandparents, I remember it was a job to get them to eat properly.

In this case, we find at Sandycove once in a while that an individual hasn't maintained his home properly for the last few years and it turns out that when he passes away or decides to sell, the home is below standard. That again affects the value of the couple down the street. What we do in that case is, if the price is right, meaning that it is well below market, we step in, purchase the home, put in a new roof, siding, carpeting, whatever it needs, and put it back on the market. Not only have we made the home that the couple down the street is trying to sell competitive with it again, but we've refurbished the whole community and helped in both of these things.

I know I'm talking quickly, but both of these items, the for-sale sign and the first right of refusal, are items that without a doubt have worked to maintain the value of the homes of the tenants. Getting back to what I started saying, it's essential in retirement communities or in mobile home parks in general that nothing be done to devalue those homes. If they devalue, we're going to go right back to what we all had in the 1950s and 1960s with the typical community. We're very proud of what we've been able to do in our communities. We know that the people who choose to live in our communities are proud of what they've got and we don't want any of that to be hurt.

I've got to say very quickly with respect to another situation, when you get into land leasing and rent controls, if there were for-sale signs and no first right of refusal, it's very possible for somebody to drive into Wilmot Creek, see a Re/Max sign and decide to buy the home. They could buy the home without ever going to our sales office, without ever being aware of the details of the lease or of the way of life, because under the Landlord and Tenant Act we must assign the lease. So you end up that a major part of the community, the fact of understanding the complications of the Rent Control Act, would be lost to this individual.

We've had cases like that where we've had to sort them out. Sometimes in a case like that we say, "No, we're going to step in and buy this home and sort out the problem." The realtor is interested in selling the home. He's interested in making a commission on the sale. Sure, we want to sell homes, whether they're new homes or used homes, but we also are a landlord and we want to live, and live happily, with the tenants for 20 years. That basically is all I want to say on that.

I'm going to refer very quickly to the reserve fund that's mentioned in the bill. We don't think it's necessary, because we believe that the Rent Control Act keeps the landlord in line.

Finally, I'm going to conclude, and I'll be glad to answer any questions that members might have. I'd just like to say that communities are very different. There are family communities and retirement communities, and I think it's very important that the members realize the differences. Our communities are retirement communities. We believe that the market should dictate. If the market out there says, "We don't want you to have this first right of refusal," it won't be long before we aren't selling that

way. But the proof is that the people who buy are very convinced that this should be there. There may have to be some changes in how it's handled, but the fact is that it should be there. It's a tool that has made our communities what they are today.

As I said, and I'm repeating myself, the tenants and ourselves are very proud of our communities. I just ask the committee to consider not to hinder the value of the homes of the people who live there. They have invested in these communities. What may appear to be affecting value properly will in reality affect the value detrimentally.

**Mrs Marland:** On a point of order, Mr Chair: The reserve funds, for example, we have been told are out anyway. I'm just wondering if we could expedite and facilitate our questions if Mr Wessenger could put on the record what he is doing so that we don't waste time, Mr Daigeler, Ms Fawcett or I, asking questions that are redundant in light of his own amendments to the bill.

**Mr Gordon Mills (Durham East):** We're here to listen, Margaret.

**Mr Paul Wessenger (Simcoe Centre):** I have no objection indicating that there will be an amendment brought forward, first of all, deleting the reserve fund requirement under the bill. There is also going to be an amendment dealing with first right of refusal. I think those two should clarify some of the aspects. The question of the signs is obviously a matter we're going to have to consider and listen to all the representations, and after hearing that, make a decision on what is appropriate on that issue.

1020

**Mrs Marland:** What is the amendment for the first right of refusal, so we know?

**Mr Wessenger:** What is under consideration is a provision that first rights of refusal will be permitted, but they'll be subject to normal time limits and there will also be no discount.

**The Chair:** We have time for one question and Mr Daigeler's going to ask it.

**Mr Daigeler:** Just on that point of order still, this clearly points out again the difficulties we are in. It is highly unusual to have amendments at this point when we haven't even heard from the deputants yet.

Frankly, it just reinforces what I said earlier, that obviously we're not at all ready to go to clause-by-clause. I certainly will be pushing for further opportunities for the public to be heard on this, once we know exactly what the bill is going to be like. At this point, as I said, I appreciated hearing from you, and frankly I understand much better now what your concerns are and what the issues are. I was not aware as to why not having a for-sale sign would be such a problem. I understand that much better and I appreciate that.

Let me ask you, because we have so little time—

**The Chair:** If that is on the same point of order, Mr Fletcher has a point of order.

**Mr Mills:** Is this his time? Come on, we're going to lose our time if this goes on.

**The Chair:** I should tell you that we have lost our time.

**Mr Mills:** This is ridiculous, absolutely ridiculous.

**Mr Fletcher:** This is on the same point of order.

**Mr Mills:** You take up points of order, you run up the clock and then we can't have anything.

**The Chair:** There was only four minutes, Mr Mills.

**Mr Fletcher:** Is Mr Mills okay now?

**The Chair:** Mr Fletcher.

**Mr Fletcher:** Thank you. Settle down. I was just wondering, Mr Wessinger, when you made your amendments, are your amendments from listening to people, consulting with people, or are these just things that came out of our own head?

**Mr Wessinger:** Mr Fletcher, amendments will be tendered hopefully this afternoon. Some of the amendments I intend to make are the result obviously of discussions with people like the participant here today and other people who have talked to me.

**Mr Mills:** Right on.

**Mr Fletcher:** Since this is a private member's bill, that was an admirable thing for you to do. Thank you.

**The Chair:** Thank you, Mr Rice. I apologize that we didn't have some time to talk to you directly.

**Mr Mills:** That's disgraceful, absolutely disgraceful that we don't get time.

**Mr Wessinger:** I would have liked to ask some questions.

**Mr Mills:** Someone comes down and we want to ask questions and there's no time at all. Why are we here?

**Mrs Joan M. Fawcett (Northumberland):** That's a very good point.

**Mr Daigeler:** On a point of order, Mr Chairman: I think if Mr Mills is allowed to make his interjections, there should be some room for us to comment on that.

**Mrs Fawcett:** Yes. I certainly have a comment, Chair.

**Mr Mills:** I wasn't on the record.

**The Chair:** I think we should all be reminded that these are public hearings. The business of the committee is to speak to the deputants who come before us, and if we can restrict our comments to that it's most helpful to the way we proceed.

**Mr Daigeler:** Including Mr Mills.

BRAD MORGAN

**The Chair:** The next presentation will be from Morgan's Mobile Homes. The first thing I'm going to have to tell Mr Morgan is that he's going to have to remove the sign.

**Mr Brad Morgan:** That's fine.

**The Chair:** This committee hearing is an extension of the Legislature. No demonstrations or placards etc are permitted. Now, good morning, Mr Morgan. You've been allocated 20 minutes for your presentation. It's always appreciated if there's some time for conversation with the members. Would you please introduce yourself for the purposes of Hansard and we will begin.

**Mr Morgan:** I'm Brad Morgan from Morgan's

Mobile Homes in Clinton. I've never been in front of the House of Commons type of thing. I'm a little nervous.

**The Chair:** Just relax. You'll be fine.

**Mr Morgan:** Okay. To the members of the committee: My name is Brad Morgan and we own two parks with 66 homes in them. These parks were purchased in 1967. They're not of higher-class calibre, but very good people in them.

I thank you for the opportunity to share my views on Bill 21. How does a bill like this one get through readings and to committee with only a few landlords knowing about it? Should we be in contact with the government on a daily basis? Are we to represent landlords from all over Ontario when I believe the majority of them never heard of Bill 21?

I do not want to offend anyone personally, but my presentation is a little sarcastic. I'm very frustrated with trying to run a family-owned and -operated business, and I stress it is a business, when the government has made it practically illegal to be a park operator. Can anyone say they have read the Rental Housing Protection Act, the Rent Control Act, the Landlord and Tenant Act, the Land Lease Statute Law Amendment Act and the Planning Act and are able to understand them completely? I would like to get some names so I can call for explanations, so I don't have to hire extra lawyers.

I personally do not support most types of government intervention with respect to renting and leasing of private land. The tenants' association of each park should be able to lobby their own landlords for necessary changes. I have a copy of the second reading of Bill 21 at the Legislative Assembly. In addressing why Bill 21 came to be, Mr Wessinger should have asked those tenants if they would rather give up restrictions and security in exchange for living beside so-called reformed murderers, rapists, thieves, paedophiles, an all-round great bunch of undesirables. With these bills you've taken away our right to govern our own property. The homes in that area certainly won't appreciate over the years and the families might abandon these areas altogether.

When there is a problem, the landlord is the one who's held responsible. Municipalities and police will tell you, "It's your landlord's property; you talk to him first." I bet most landlords can tell you of life-threatening situations and wilful damage concerning tenants and their guests. Examples are: being nearly run over by angry guests, being shoved through our front glass window or our front glass door by two party-going thugs, having our car stolen, truck stolen, tools, and break-and-enters in our warehouse.

Mr Wessinger talks about security and tenure in parks south of the border. This statement is very true, but the reason for their success is the municipal support, the lack of government intervention, and also the investment of labour and money by business to make the park a desirable place to live. He is also concerned about park closures. Well, one reason for the park closures is the demands from government which make it all but impossible to financially support a landlord and his family and to keep the park running smoothly.



The right of first refusal should be given to the tenants' association so that they would be able to buy the park if the park owner wanted to sell. Landlords in most parks don't have the right of first refusal or any other rights to refuse anything, let alone the money to purchase the home that needs updating.

How about this idea? Just pass another law that would ensure all mobile homes in parks be brought up to the new Building Code standards. I could just imagine the squealing that would go on in the tenants' circle. Sorry, no votes for the NDP today. At least I could offer my services as a contractor for these upgrades, or could I? I guess we'd have to change the Rent Control Act.

Here's one example of what recently happened in our park. We let an elderly man and his ancient 1957 mobile home stay in our park till one day God asked him to leave. We told the estate that we would buy the home and remove it, or they could move it on to a summer park, so that we could put in a more updated home and a bigger one. How many tenants do you think would be upset if we let riffraff move into this unit as it was? It would certainly have devalued the neighbourhood, homes and the park in general.

About the reserve fund, I think it's ridiculous. Who is going to police and administer the fund? I don't know, but I'm sure it will cost a lot. There will have to be countless professional surveys, engineers' reports, tenders, all sorts of red tape, and after the lawyers and accountants send their bills in, I would think \$20,000 per park would slide through the government administrators' fingers quite easily without ever reaching the parks for upgrades.

Our park is situated in a snowbelt area on the lee of Lake Huron, which adds the high cost of snow removal that some other parks do not have. We've had expensive repairs on a road tractor and have had to buy another newer one just to keep our obligation fulfilled. We've had watermain breaks because of the frost. We've paved the roads and tried to maintain a decent park. No municipality has ever offered financial assistance to us. They just double our taxes every few years, then ask for more permits, more regulations and some very expensive surveys. They want our park to comply with subdivision bylaws. How can we be the criminals here?

**1030**

We only get \$98 a month rent. If you can grant me \$400 a month, I will gladly set aside money for upgrades. The low cost of living in our park as compared to elsewhere keeps few for-sale signs from showing. A few times we have let real estate sell and they've asked outrageous prices. The homes sit unsold for ages, and they also do not inform us of the new tenants before the deals are signed. I think the tenants would rather see me govern the signs or erect a notice board than to see the signs I had up situated on the streets, maybe 10 of them.

I had a joke, but I guess it's not suitable.

**Mr George Dadamo (Windsor-Sandwich):** Try.

**Mr Morgan:** Okay, it's time for a joke. What two businesses in Ontario can you not quit or cease operating the business? The Mafia and the land-leased mobile home

park business. If you quit either one, you will be penniless or you will be dead.

A fair way to deal with the landlord-tenant relations is to deregulate the parks and let free enterprise regulate or for the government to purchase our properties at a fair market value, before it became a poor investment. Another idea might be to supply government funds for tenants to buy the properties so they can manage the park properly, and maybe we could expropriate this land from the town and use our high taxes for our own new-founded village and its services. I think I would call it Morganville. Most of my tenants respect and like me, and I in return try to be as helpful as I can to the tenants, whom I respect. I believe the whole park wants a bad apple removed so it doesn't spoil the whole bushel.

Thank you again for allowing me to speak, and I hope you can see my point of view. I would seriously like to get some information on how to groom one of my boys to become a member of Parliament.

**The Chair:** Perhaps Mr Daigeler can help with the last question.

**Mr Daigeler:** Are we starting here now?

**The Chair:** We really didn't have any questions last time.

**Mr Daigeler:** Let me ask first of all, how did you hear about the bill?

**Mr Morgan:** Just the newly formed land-lease federation brought it to our attention. Otherwise, we would not have known. The landlords the federation has talked to are the only ones who know. I don't know if I have ever seen it in the newspaper.

**Mr Daigeler:** You haven't received any kind of notification or anything like that.

**Mr Morgan:** Not to my knowledge. Maybe it's in the paperwork, but I sure didn't see it.

**Mr Daigeler:** How much time do we have?

**The Chair:** You have about three minutes.

**Mr Daigeler:** If this bill were to pass the way it is right now, what would be the overall effect on your operation?

**Mr Morgan:** I would like someone to pay us a reasonable price for our park so we can just get out of it and get on with the business of making money, because as it is, we are a welfare agency.

**Mr Daigeler:** In other words, basically you'd have to give up your operation. That's what you're saying.

**Mr Morgan:** Basically, yes. My dad started the park. Well, he bought the existing park and has updated two sections of it. A lot of those are retired people. We get along great. They have no beefs about any of these things, and to just put more legislation on us to keep these rules up is ridiculous. Like I said, we have under \$100 rent per month and our taxes are upwards of \$1,000 a year per home. What services do we get for that? I would rather just have our own little town. We'd run it the way we want to run it and use those taxes to keep it going.

**Mr Daigeler:** About how many units are in your park?

**Mr Morgan:** About 66 homes. That's mostly working-class, with some welfare and some retired.

**Mr Daigeler:** I'm looking to the Chairman because we all have a certain number of minutes that we can ask questions. I'm not sure whether it's fair to ask you, but are you aware of any major problems over the time you and your family have been involved that ought to be addressed by the government?

**Mr Morgan:** No. I think we could address them ourselves, and with the help of the town police, I'm sure most of the problems will be solved without all these regulations and limitations on rent. If it were run as a business on the open market, the open market would keep us in line. For our old existing parks, I don't believe this has anything to do with them, or shouldn't have anything to do with them.

**Mrs Marland:** Mr Morgan, I want to congratulate you on your presentation. You certainly didn't have to be nervous and you've done an excellent job. It's rather a depressing picture. I was just figuring, if you said your taxes per lot are \$1,000 and your income is \$98 a month—

**Mr Morgan:** Not all the homes. We have some pretty run-down homes in our park. There are ones there that are worth \$1,000 which are taxed at almost \$20,000 value.

**Mrs Marland:** But it's not a big money-making business is the point that I'm making.

**Mr Morgan:** It is not a money-making business. A money-making business is in the sale of homes to private lots or to second homes on a farm or granny flats, and that's where we make our money. This is just a time-consumer.

**Mrs Marland:** In the meantime, you see your property rights going out the window in terms of what you could do with your land if you wanted to get out of the business.

**Mr Morgan:** Yes. I would like to get out of the business and just sell homes, prefabricated housing.

**Mrs Marland:** I don't have a copy of your brief, but it will be in Hansard when we get Hansard back. But did you say how many units you operate presently?

**Mr Mills:** He said 66.

**Mr Morgan:** Yes.

**Mrs Marland:** Thank you. How would you feel about the for-sale signs if they were in the windows of the existing units, rather than on the property? Would that be a problem for you?

**Mr Morgan:** It's not a problem, as I said, in our park. I definitely see it as a problem in the big parks. In our park there's no problem selling a home because every place uptown is three times the price. We're on the edge of town, and if a home comes up for sale, it doesn't take long to sell it. I'm just saying there's no reason why there can't be 100 signs like I did have there in a park. Not in my park, but 10 or 20 of those home-made signs certainly wouldn't be very professional or look very good.

**Mrs Marland:** No, I'm talking about a real estate

sign in the window rather than anything on the property itself.

**Mr Morgan:** Well, real estate doesn't seem to really know what it's doing in a park. They're trying to sell the property, which they have no right to sell. They're just supposed to be selling the home that's on the property. We've had real estate in, but we've cut a deal with them.

**Mrs Marland:** Have you had experience where professional realtors have sold units in your park and the purchaser has not been told either by the real estate agent or the vendor that it was leased land?

**Mr Morgan:** Oh, I'm sure they were told that it was leased land, but I don't think they ever got a copy of, say, rules and regulations. In our park we don't have very many. Maybe Mr Rice would like to sit back up here and use some of my time for questions back to him.

**Mrs Marland:** Well, I've talked to Mr Rice, so I know what their experience is, and I was just trying to get experience in another park.

**The Chair:** Mrs Marland, we're moving to Mr Mills.

**Mr Mills:** Thank you, Chair, at last. I would just like to thank you for coming here this morning, Mr Morgan, and I would also like to tell you that though it's quite fashionable to blame the NDP government for anything from static cling to the cold weather—

**Mr Daigeler:** And it's all true.

**Mr Mills:** —I just want to tell you and my self-righteous colleagues across the way there that this legislation hasn't just come about. In fact, on May 11, 1989, a member of the previous Liberal government also introduced a private member's bill similar to my colleague's to bring these concerns to the Legislature on behalf of all the people who live in parks etc.

*Interjections.*

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**Mr Mills:** Also, I'd like to remind my self-righteous friends across the way there that the resolution on the issue, the substance of which is this bill here today, was presented at the Durham East Liberal association, it was accepted as policy and it was submitted to the regional policy council. So they can't escape. This has been a problem for a long, long time that many, many legislators have tried to come to grips with, and we are the new boys on the block and we are trying to come to grips with this.

I'm interested in what you said in so far as you don't like this bill, that's obvious, and you feel the tenants of the organizations should lobby the landlords for change. I put it to you, sir, that that system has failed, and that's why we're here today. That's why the Liberals were there with their resolution. Lobbying landlords has failed the tenants. What do you say about that?

**Mr Morgan:** Failed, meaning what?

**Mr Mills:** It's failed; you know, you can't get anywhere. If the tenants rely on lobbying you, and you said, "We want to make more money," as I think I heard you say, how does this fit in with meeting the concerns of the tenants in these parks, if that's your philosophy?

**Mr Morgan:** The concerns of the tenants are, if the



park homes go up in value and it's a desirable place to live, then we will make money because the rent will be up. If people keep putting more money into the park, into their homes, updating them, and also if we get a reasonable rate of return, the whole scene is worth more and I believe everyone benefits, as compared to the way we're letting it slide right now.

**Mr Mills:** I agree with what you're saying, but how are people getting this worked out if they appeal to you to get things done to improve their lot and you're not doing anything about it? What is their recourse, except through their MPPs, who subsequently bring forward legislation like this to come to grips with the problems?

Excuse me, sir, the NDP didn't make these problems. We haven't created the problems in land-lease lots and trailer parks and everything. The problems are there. We're here as legislators. I'm here representing the people in my riding to come to grips with the problems they're facing. Is that wrong of me?

**Mr Morgan:** In some places you are.

**Mr Mills:** Am I?

**Mr Morgan:** In my park, I don't believe there is a problem, because we try to work things out with our tenants if they have a problem. If there's 1,000 homes in a particular park, I'm sure not all the problems will be worked out. When it is our property, if someone wants to move out, I see no problem with them moving out.

**The Chair:** Thank you, Mr Morgan, we appreciate you taking the time to come and see us this morning.

#### LEGAL CLINICS' HOUSING ISSUES COMMITTEE

**Mr Paul Rapsey:** Good morning. I represent the Legal Clinics' Housing Issues Committee, which is an organization of over 70 legal aid clinics province-wide. A major function is to study housing issues in detail, and particularly legislation of this sort.

Our written submissions are some 25 pages and they're in four parts. A significant part of my submission has had the wind knocked out of it by learning this morning that the reserve fund amendment is about to be proposed, so I won't deal with that issue, but it was about one quarter of our submission.

I should also say that I was to be a co-presenter and Ms Wendy Bird from Sault Ste Marie had an accident and was ordered by her doctor not to travel. So there may be some questions I cannot answer in detail and I will take down any of those questions and reply in writing after I've discussed those particular issues with Ms Bird if I can't answer them satisfactorily for you.

The first part of our concern about the bill is that it creates a new class or subclass of mobile home, which is the non-seasonal mobile home park. The Legislature in 1975 first recognized the reality of mobile home parks and brought in the existing amendments, which govern all mobile home parks except those that are vacation properties alone and where the term of the tenancy is for under four months. What the bill is doing is providing a new class of mobile home park, which is this non-seasonal creature, and the differences in the definition are contained in three words. Those three words are "in all seasons."

We're not quite sure what that term means. I don't think it necessarily means it's a park that has to be open 365 days a year, but does a park that's open a few hours in each season fall under the category or not? I simply can't answer those questions. Our written submissions have given examples of many types of problems that will arise with this particular definition.

We have talked with a number of mobile home park tenants in the so-called seasonal premises. They were not at all consulted about this bill and are very concerned about the exclusion from the impact of the bill, because these are parks that traditionally close for a few months during the coldest seasons. Many of these people are your Anne Murray snowbirds who, for financial reasons, cannot afford to live in Ontario year-round. They are some of the most vulnerable of tenants and there is no reason why they should not be incorporated into this bill.

I think the aim of Bill 21 is admirable. I only regret that this problem of land-lease communities and mobile home parks has been one that has been studied by successive governments over the years and studied in detail. I was first contacted in 1989 by a government study and I find it unfortunate that, acknowledging the many problems, it had to be brought forward by a private member rather than by the government. If the aim is to protect tenants' security and it's to protect the investments tenants have in their mobile homes, then there is no less investment or no less right to security of tenants who live in so-called seasonal mobile home parks.

There are a couple of really interesting very recent court decisions which have acknowledged mobile homes are anything but mobile. To be forced to move them would cause the physical breakup of many of these homes, the total destruction of the tenant's major investment in life. Another court has acknowledged that there is a diminishing number of spots where tenants can move these mobile homes to. Therefore, they are stuck with the possibility of losing their investment if they are not given the full protection that this bill would offer to the so-called non-seasonal uses and the land-lease communities. In some of those court cases, more enlightened judges have granted relief from forfeiture to the tenants, but that is anything but assured to tenants. We have concerns there.

The reserve fund part, obviously, I will not address at all. It would not have worked. I think that is our basic conclusion. It would not have worked because of concerns under the Rental Housing Protection Act that I'm going to put forward now.

The bill, as it applies to the Rental Housing Protection Act, extends protection, as I said, to land-lease communities and to non-seasonal mobile home parks. The concern is particularly for northern Ontario, where many of these parks, both seasonal and non-seasonal, are located in municipally unorganized territories which are not covered by the Rental Housing Protection Act. These communities are the most vulnerable, and we simply don't understand why a bill which is as comprehensive as this one has failed to include the unorganized territory parks.

We have problems with mobile homes in Elliot Lake, in Sudbury, in Thunder Bay. We have problems in the



Muskokas, we have problems in the Kawarthas and we have problems that are known to us in the Ottawa Valley. We feel that the protection must extend to all parks in the province and not just those in municipally organized areas. As you know, it's not only municipally organized areas; it's those that are specifically set out in the regulations.

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Also, we have problems with the wording of the part of the bill that deals with the Rental Housing Protection Act. There are multiple new definitions that are, quite simply, confusing to read. We think that there is one definition which could be deleted entirely and, with some minor adjustments, make the statute read more clearly. We have proposed in our written submission the deletion of the definition of "residential unit." We think this simplifies the reading of the bill and accomplishes the same purpose.

There is also an amendment to the existing subsection 2(2). We find the amendment complicating in that it seems to remove apartment buildings which are already covered by the act from the coverage under the act. We simply see no valid reason for the changed definition. Obviously, part of the reason for the changed definition is the inclusion of land-lease communities, but we don't understand their apparent—and I say "apparent" because I have to confess I can't conceive that there would be an intention to remove apartment buildings, but it's the way we read the bill, in any event.

The bill also provides exemptions from the coverage of the act, and these exemptions are to be made by regulation. Again, we seem to read this exemption provision as excluding mobile home park sites. We don't understand why there couldn't be valid exemptions for certain mobile home park sites if they met certain carefully regulated criteria. I'm just raising that there are some actual drafting concerns we have.

Another major concern of ours is the provision that deals with the removal of mobile homes from the rental property, and this is the new subsection 4(2.2). In reading the provision, one can only hope, at least as a tenant advocate, that the purpose of the provision would be to allow a tenant who owns their own mobile home and rents the site to remove the mobile home without prior approval by the municipality and also to prohibit landlords from removing mobile homes without the prior approval of the municipality. But that's not the way it reads. It seems to indicate that a tenant who both rents the land and the unit can remove the unit, which doesn't make sense, without prior approval, but a tenant who owns their own unit cannot remove it. There's a problem in this. It could allow collusion between landlords and tenants to change the status of the park by the removal of units from the park. We simply hope there's a drafting oversight or some omission there that can be explained.

There are other provisions, the new subsection 10(4) and the new 9(4), which distinguish between premises already covered under the act and the new premises to be brought under the act. We agree that those distinctions need to exist because you don't want to impose retroactive restrictions, but we think the wording of those two

provisions in particular is awkward. It requires constant cross-references between multiple definitions and definitions of definitions within definitions before one can understand the application. We hope the new thrust of legislative drafting is to make statutes comprehensible to the ordinary citizen. Certainly we don't think that this bill, at least in those instances, accomplishes that end.

We think the draft legislation requires fine-tuning and we cannot see the justification for the omission of tenants in unorganized territories from coverage of the legislation.

More importantly, we also think that this bill must be seen only as an interim measure. The nature of this special type of rental housing and the unique situations and problems faced by both landlords and tenants in these types of separate premises need specifically tailored legislation to govern them.

The Landlord and Tenant Act was first introduced to govern residential premises in 1970. It was amended in 1972, it had a major amendment in 1975, other amendments in 1981 and 1986, a major amendment in 1987, another amendment in 1989, a major amendment in 1990, another major amendment in 1992 and there is already Bill 121 before the Legislature with further major amendments. This type of Band-Aid amendment cannot go on. The reality of residential tenancies has changed markedly, particularly with respect to mobile homes and land-lease communities, and the 25 years since the introduction of part IV of the Landlord and Tenant Act requires comprehensive consideration.

I want to just touch briefly on the final part of my submission, and these are a few miscellaneous points: the right of first refusal and the for-sale-sign issue, which was addressed by the previous two speakers.

I have to say that we as tenant advocates agree that the right-of-first-refusal provision is far too broadly stated. There may be times when such an agreement between landlords and tenants would be to the mutual benefit of both. It obviously wants to ensure that the agreement is made in good faith, that it's not imposed upon the tenant by undue influence or an inequality in bargaining position, but this could be arranged, and we have suggested in our written submission the types of agreements that could be validated and the types of situations where they may be justified.

On the for-sale-sign issue I take a different point of view than the previous two speakers. I think the right to sell, which is now contained already for all mobile homes in the Landlord and Tenant Act, must obviously include the incidentals of a sale, and those include not only for-sale signs but the right to show potential purchasers and the right to advertise. We think there needs to be a right to have any disputes resolved in a summary fashion.

But we think the inclusion of the one provision, the right to have a for-sale sign, diminishes the existing rights. If the courts see that there is a right to have a for-sale sign, they're going to read that it means there is not a right to show purchasers the property, there is not the right to advertise the premises, there are not all kinds of other rights which are necessary to making a sale take place. We have concerns about the limited inclusion of a



specific right to place a for-sale sign.

There, in a nutshell, is 25 pages of submissions. Our submission also includes quite a detailed legislative history and some of the jurisprudence dealing with mobile home park concerns. But I want to say, as an advocate who was involved in a number of very nasty and lengthy disputes between mobile home park tenants and their landlords, that it is definitely a time where there is a need for change. I commend Mr Wessenger for bringing forward this bill. As I said, there are some problems with it.

Those are my submissions.

**The Chair:** There is time for a very brief question from each caucus.

**Mrs Marland:** Mr Rapsey, are you a lawyer?

**Mr Rapsey:** Yes, I am.

**Mrs Marland:** Who funds the legal clinic's housing issues committee?

**Mr Rapsey:** It's funded through the clinic funding committee, which is a branch of Ontario legal aid.

**Mrs Marland:** So it's funded by the government.

**Mr Rapsey:** Indirectly.

**Mrs Marland:** Because you said you were a tenant activist.

You've identified that the bill is poorly drafted and requires fine-tuning. Could you tell this committee what, in simple language, is the solution to the fact that we have two kinds of property owners in this whole issue? We have property owners who own property and we have property owners who own buildings. What is the solution that would provide equity to both of those owners in this province?

**Mr Rapsey:** That's a very broad question.

**Mrs Marland:** Well, you have a 21-page draft, and that's what we need.

**Mr Rapsey:** The solution is, as I said, ultimately special legislation dealing with land-lease communities, and land-lease communities are communities where one party owns the land and the other party owns the structure. The normal residential premise is where the tenant rents and the landlord owns the building, but there isn't the same separateness. I think simply you've got the problem of dealing with planning acts, environmental studies, the various problem that these communities have sprung up without any thought, without any planning, without any legislation in place at the time they were created. You've got patchwork and it doesn't work.

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**Mrs Marland:** So you don't have a solution.

**Mr Rapsey:** I have no solution, other than comprehensive legislative reform.

**Mr Wessenger:** Thank you very much for your presentation. I think some of the fine-tuning matters hopefully will be dealt with in the amendment which you raised, and amendments which will be presented.

But I was particularly interested in your comments with respect to the sale rights. You indicate that you think this right of sale should be further extended. Have

there been problems with some of these areas; for instance, of refusal of access to common areas or refusing people the right to see?

**Mr Rapsey:** Yes. We've had one problem particularly—this was in the Kawartha area—where the landlord was basically prohibiting entry to all kinds of people, including would-be purchasers. It was a matter that just kept going to the courts, injunctions and multiple problems. So yes, it exists all the time.

I can't say it exists everywhere or with every landlord or that there aren't good landlords. I think we've heard from some people who may be good landlords. Unfortunately, you can't guarantee a good landlord. You can't guarantee that the premises won't be sold by one good landlord to someone who isn't a good landlord, and I think that's why you can't depend on goodwill.

**Mrs Fawcett:** Thank you for your presentation. I'm sure you are aware that we were given yesterday 27 amendments to a 26-section bill, and one of those amendments will strike out the retroactivity of the bill. I know that tenants have expressed to me that this is a real problem, especially the trailer park in my riding, and I'm just wondering how you feel about the fact that the retroactivity—

**Mr Rapsey:** I didn't know that the retroactivity provision had been struck out.

**Mrs Fawcett:** It hasn't yet, but that is one of the amendments that will be presented, which is the problem with this whole hearing.

**Mr Rapsey:** Normally, a retroactivity provision is put in from the date of first reading to prevent parties, in anticipation of a change that's going to affect them perhaps detrimentally, from taking anticipatory action against the other party. I would have concerns that if it were not maintained, there may be some abuses that have already taken place that could not be remedied.

**Mrs Fawcett:** Thank you. That is our understanding of what's going to happen.

**The Chair:** Thank you, Mr Rapsey.

#### ONTARIO LAND LEASE FEDERATION

**The Chair:** The next presentation will come from the Ontario Land Lease Federation. The committee has allocated 20 minutes for your organization for your presentation. Kindly indicate who you are and your position within the organization and introduce your colleague. Then you may begin.

**Mrs Jo-Anne Homan:** My name is Jo-Anne Homan. This is my husband, Keith Homan, with me. I'm representing the Ontario Land Lease Federation, of which I'm the secretary. My husband and I also personally own and run a 230-mobile-home park near Goderich.

I'm here today to submit comments on Bill 21. I represent the Ontario Land Lease Federation. It's composed of mobile home parks, land-lease communities, dealers and manufacturers. We represent a majority of the communities and the concerns that this bill will have on our businesses.

The purpose and objectives of the newly formed Land Lease Federation are: to voice the concerns of land-lease

communities to all levels of government with regard to legislation, regulations and policies affecting land-lease communities; to secure the cooperation of all agencies and organizations, both public and private, that affect any aspect of land-lease communities in order to ensure the feasibility, continuance and growth of land-lease communities in this province; and finally, to promote land-lease communities as an affordable housing alternative.

Our federation represents the concerns of communities to date with over 9,000 units represented. The majority of the communities are owner-developed and -managed. The majority of the owners live onsite, with almost no absentee landlords. We have always in the past worked with, listened to and tried to resolve problems within the communities without outside government interference. We feel this bill, if allowed to pass in its present form, will adversely affect and jeopardize the continuance of this affordable housing alternative.

With the scarce supply of residential development land in the large urban centres, land-lease communities are helping to reduce the pressure and allow people to have an affordable housing alternative outside the large urban centres. We believe that mobile home parks and land-lease communities provide a necessary form of low-cost and affordable housing in Ontario. These communities receive no government-assisted subsidies. These communities pay their own way and provide an abundance of municipal tax to help the municipalities where these communities are present.

Ontario Land Lease Federation members have created individual lease agreements and commonsense rules which they feel are necessary on a community-to-community basis. All the tenants, prior to living in these communities, are given copies of the lease agreements and rules, and the tenants understand and agree to these conditions before choosing to move into the communities. So we do take offence at the suggestion that landlords have imposed unreasonable restrictions on tenants. This is not the case.

In the summer and fall of 1990, a group of mobile home parks and land-lease communities met with the interministerial liaison committee for mobile home parks and land-lease communities. They reviewed with us the terms of reference that they were operating under, described the role of the working group and a discussion of the report that was to be generated out of the meetings took place. Assurances were given to our working group of mobile home parks and land-lease communities that we would receive a completed report. To date we have received no report. This assurance was given to us by the chair of the committee from the Ministry of Housing, Ivy France. Since our federation represents so many communities in this province, we are respectfully requesting at this time a copy of the full transcripts of this hearing and the report from the interministerial liaison committee.

Bill 21 comes at an untimely and inappropriate time when mobile home parks and land-lease communities do not need to have imposed on them more regulations, requirements and increased operating costs. Some of our communities are desperately struggling in attempts to survive. We feel this bill is an attempt to resolve tenants'

problems, but in our opinion it is only going to increase their problems, their level of frustration and burden the taxpayers of this province with an unwarranted expenditure to administer this ill-conceived and poorly drafted bill.

The Ontario Land Lease Federation is uncertain why this bill has had second reading when there has been no consultation with mobile home park or land-lease community owners. Landlords were not consulted whatsoever, and the majority of tenants in these communities were not consulted either.

The long-term ramifications of this bill and the impact of certain sections have not been well-thought-out, and any change that has an appearance of a positive nature has to have a negative impact on some of the communities. This must be further studied to look at the long-term impact.

#### 1110

This bill requires further consultation between the parties, and I urge this committee not to make recommendations to adopt this bill in its present form until there is a task force formed to study this. The task force should be comprised of a group of representative landlords, a group of representative tenants and government officials to define the problems in these communities clearly and draft with legislation a solution to these problems.

We further urge the government that it might be the time and place to prepare a new piece of legislation that encompasses only mobile home parks and land-lease communities. The existing Landlord and Tenant Act, the Rent Control Act, the Rental Housing Protection Act and other acts have all attempted to fit our communities into existing legislation, and it's not working.

We all know from the past that housing drives the economy. With the slumping housing sales over the past few years, it might be a worthwhile mandate of this government to promote an affordable housing alternative in this province such as mobile home parks and land-lease communities.

Statistics Canada recently released figures on the number of people turning 65 each month. That number is 19,000 people turning 65 each and every month, and that number will increase. There is a pent-up demand for these types of communities in the province, and by placing further restrictions on these communities you will continue to drive investment out of the province to other areas where these types of developments and communities are welcomed with open arms.

I believe we both want the same thing: We want affordable housing in this province to continue, we want to expand affordable housing, we want to create additional units to house people and we want the attractiveness of these communities and high standards maintained to protect all.

The difficulty the federation and this committee will have is because each and every mobile home park and land-lease community is different and extremely different. In the past, the Landlord and Tenant Act, the Rent Control Act, the Rental Housing Protection Act and other acts were all written with the idea of an apartment



building in downtown Toronto being the standard. The majority of mobile home parks and land-lease communities are not on any municipal servicing, do not get municipal snowplowing, municipal water and sewer, garbage pickup or municipal street lights. All these services are supplied, installed, maintained and paid for by the landlords of these communities with no municipal help whatsoever. So a subtle change in a bill on one community might not be a subtle change in another community.

The federation feels that this bill should come into force when it receives royal assent and that the retroactive provisions of this bill should be removed.

In reviewing this proposed bill, we find many sections can be severely altered by the imposition of unfair regulations. Since the regulations have not been attached or made available to our committee for review, it is unclear the impact they might have.

In order to determine the total impact that this bill will have on mobile home parks and land-lease communities, we feel many amendments will have to occur. The regulations should be laid out to all parties prior to third reading and royal assent. We suggest the establishment of a committee or task force made up of landlords, tenants and various ministries. I think a lot of good could come out of this joint committee. There may be some further amendments put forward to benefit both parties and to have communities in this province established that are at the leading edge of such communities in Canada. Maybe this should be our goal.

We will now make comments on the bill, amendments to the Landlord and Tenant Act.

Amendment 1: The federation supports expansion of the Landlord and Tenant Act to cover land-lease community homes. We feel the tenants in these communities should be afforded the same protection as other tenants.

Amendment 2: The federation supports amendment 2, requiring the landlord to provide reasons for refusing consent for the tenant to sell, lease or otherwise part with possession of their mobile home or land-lease community home.

Amendment 3: We are not certain that amending the first right of refusal—now, we've discussed that, so I don't know whether to just; I'll go through it anyway—has as great a benefit to tenants as originally thought. The first right of refusal that is present in most tenancy agreements is not so much for the individual tenant but as a benefit for the whole community. It is our understanding that some first-right-of-refusal agreements between landlords and tenants contained in lease agreements were worded in a way that the tenant would receive 95% of the purchase price from the landlord in the event the landlord was to exercise his first right of refusal when presented with another offer from a purchaser of the tenant's home. We feel that this should be amended so that the landlord would have to pay 100% of the purchase price and not be allowed to deduct the real estate commission from that first-right-purchase agreement.

Our membership's understanding of the purpose of the

first right of refusal contained in tenants' agreements is for two reasons:

(1) Upgrading standards of poorly maintained homes. In the event a tenant wasn't able to keep his home properly maintained, that tenant's actions tend to depress the value of the homes around it. It would be in the best interest of the rest of the residents in the community for the landlord to exercise the first right of refusal on a sale to buy that home and upgrade that home to present park standards, thus maintaining or increasing the values of other homes in the park.

(2) The home becomes physically and functionally obsolete. There comes a point in time in every mobile home park that the original home that was placed in the park 30 years ago becomes physically and functionally obsolete. Twenty or 30 years ago there weren't available double- and triple-glazed windows, R-40 insulation in the ceilings, floors and walls, and the flat roofs that have been replaced with asphalt-shingled roofs. Not only do these older homes lead to extremely high heat bills, but they do not enhance the community.

In the event of one of these older homes becoming available, it would be in the remaining residents' best interests for the landlord to exercise his first right of refusal and buy that home, remove it from the community and replace it with a new home, thus upgrading the standards of the community. If the first-right-of-refusal condition is amended to allow the landlord to exercise the first right of refusal at 100% of the purchase price of any offer negotiated with the tenant and third party, what harm can come from the tenant receiving the same price from the landlord?

Amendment 4: The for-sale sign issue seems to be one of great contention. In communities where for-sale signs have never been permitted, most landlords and residents don't want them permitted. In communities where for-sale signs have been permitted, imposition of this regulation doesn't seem to cause a concern. But for the majority of the community, for-sale signs have never been permitted. For this reason, we feel that the for-sale sign provision in this bill should be reconsidered. The main reason for this is that in a small community, if 20 homes are for sale at the same time—I'm talking a small community of 50 or 60 homes—it can cause panic among potential buyers as well as fellow residents as to why so many homes are for sale, thus devaluing those homes that are for sale at that time and those around them.

In the alternative that this committee does not feel that section 125.2 should be deleted, then we suggest the for-sale-sign issue be resolved on a community-by-community basis. We suggest a vote of the majority of the residents in the community, and we further suggest that there should be some restrictions placed on the signs. The restrictions are as follows:

(1) The signs should be limited to one sign per mobile home or land-lease community home and placed inside the home's window.

(2) The size of the sign should be limited to no more than 4 square feet. In measuring several of the real estate for-sale signs, this seems to be a general size, a 2-by-2-foot area.



(3) We strongly recommend that for-sale signs not be placed on the lawns in front of the mobile home. We feel this will send an unclear and misleading message to a mobile home purchaser thinking he's buying the lot on which the home is situated. We know in one community this has happened and has caused the new mobile home purchaser a lot of frustration.

(4) The introduction of for-sale signs into a community where no for-sale signs were present in the past could increase significantly the danger and risk of break-ins and vandalism. In the past, if for-sale signs were not present in the community, purchasers would make inquiries directly to the office. The office would obtain details about this potential purchaser, determining their name, address, phone number, and what type of home they were interested in. We have found that sincere purchasers will volunteer this information and people who are there for improper purposes won't and they will leave the park.

Another reason why signs should not be placed on lawns is that some mobile home lots are very small and their setbacks from the road are smaller. Large for-sale signs placed on the front lawn would be very unsightly. Why should other residents who are not selling their homes be exposed to this?

Another suggestion is that prior to any tenant placing his home for sale, he notify the landlord of what he intends to do.

1120

Amendment 5: The federation feels that the reserve fund issue should be removed entirely from this bill. The Rent Control Act deals adequately with services that are not maintained by the landlord for the benefit of the tenants and the Rent Control Act has many remedies contained in it to ensure the landlord is complying with all the requirements of this intended reserve fund.

Amendments to the Planning Act: Most of the members feel already that the Planning Act has been extended to the mobile home parks and land-lease communities, if not by law then by application, and we feel this is an acceptable amendment.

Amendments to the Rental Housing Protection Act: We would suggest that the amendments which would be brought about in this regulation would thwart the legislative intent of the Rental Housing Protection Act. In general, it provides for protection in designated areas where the government feels that it is necessary in communities of 50,000 people or larger. The net effect of these amendments would simply be an aggregate of an existing situation where the landlord is held hostage with low and chronically depressed rents while the tenants gain increased value in their homes thanks to such low or chronically depressed rent. At the same time, the thrust of the legislation is to give the landlord further duties to complete in the event of a conversion. It is impossible to resolve a long-term infrastructure problem with the inability to charge more than a 3% rent increase for a capital expenditure under the Rent Control Act. Even with the three-year rollover provision, 3% on a monthly rent of \$100 is not enough to resolve the problem and gives no security to a lender or a financial institution to advance moneys on a long-term financing basis.

Because of the new environmental laws, the Planning Act and local zoning bylaws, it is next to impossible to establish more sites for mobile homes or land-lease community homes. There is a pent-up demand for these types of communities. In the state of Florida, they have allowed these communities to flourish and there is an abundance of supply. So if one community was forced to close, there are several hundred other communities from which mobile home owners could choose.

Again, we feel this only strengthens our position that a joint task force must be formed to study this situation further. The joint task force must be made up of landlords, tenant groups and government officials, like that which was established in the interministerial liaison committee for mobile home parks and land-lease communities, and allow a mandate to review, study, and complete and draft a new piece of legislation for these communities.

It is with great thanks to Mr Wessenger who, with the development of this bill, brought our communities together. For years, we've been trying to establish a federation among landlords to work with the government and our residents in these communities for long-term gains for both parties. This bill has forced us to get together finally and talk as one voice for the communities of this province. I'm sure you will review our comments, and we are ready at any time for consultation.

I believe we both want the same thing. We want affordable housing in this province to continue. We want to expand affordable housing. We want to create additional units to house people and we want the attractiveness of these communities and the high standards maintained to protect all. I believe we both want the same thing.

My presentation has been long, but I was representing a lot of people and we felt it better to say it as opposed to just handing some of it in.

**The Chair:** Thank you. We certainly appreciate your taking the time and effort to come to Queen's Park today to talk to us. This bill obviously will be considered in clause-by-clause later in the week. Thank you.

**Mr Daigeler:** While the next witness is taking his place, there's reference in the last presentation there to an interministerial liaison committee on mobile home parks and land-lease communities. I wonder whether at one point or another the ministry could let us know what happened to this, whether there is a report and whether that could be shared with the committee.

**The Chair:** I will ask the clerk to ask the ministry. I believe the representatives of the ministry could comment on that at a later date.

**Mrs Marland:** The representatives from the ministry are here, Mr Chairman, and also our researcher may know something about those minutes of those interministerial meetings. I think they're very important and they obviously were established by the former government, for which I give them credit, surprisingly enough.

**The Chair:** Thank you, Mrs Marland. We will attempt to ascertain the answer to Mr Daigeler's question at the earliest possible moment.



## CRAIG MAXFIELD

**Mr Craig Maxfield:** My name is Craig Maxfield. I am here on behalf of my family, which owns two parks, Kenron Estates and Bayview Estates, which are in the Belleville-Trenton area. I'm going to take you through my written submission and then at the end I'm going to raise some of the questions which I feel you should be considering.

Kenron Estates Ltd currently owns and operates two mobile home parks in the Belleville-Trenton area. The first park, Kenron Estates, was founded by my grandparents, Ken and Annette Maxfield, in the late 1960s. My father, Ron, assumed the operations in the 1970s and expanded the park to its current size of 450 homes.

The second park that my family owns is Bayview Estates. It's 150 homes and it was purchased by our company in 1988. We've worked hard at improving Bayview through new rules and regulations and by improving the maintenance to the common areas.

We're opposed to the following sections in Bill 21:

—sections 11 and 12, which will invalidate our existing rights of first refusal currently contained in our lease agreements.

—sections 11 and 12, which will allow for-sale signs despite a pre-existing agreement prohibiting all signs.

—section 12, which will impose a mandatory reserve fund.

—section 16, which will expand the Rental Housing Protection Act to cover mobile homes.

First, the right of first refusal. We're opposed to this section for the following reasons:

(1) Our current rights provide us with an opportunity to upgrade our parks by either renovating or replacing those homes which have not been properly maintained. By invalidating our existing rights of first refusal, Bill 21 will restrict our ability to improve our parks.

(2) We ask to be treated the same as any other holder of a right of first refusal. If it is determined that rights of first refusal are unconscionable and against public policy, we ask that these rights be eliminated from all contracts formed in Ontario.

(3) Even though we have exercised our right of first refusal only one time in the past, we feel this right is critical in ensuring the integrity and appearance of our parks. We feel that invalidating our existing rights of first refusal could put our current success at risk.

The for-sale-sign issue: We're opposed to permitting signs in our park, notwithstanding our existing agreements, for the following reasons:

(1) One of the main reasons for the success of Kenron Estates has been our attempt to ensure the superior appearance of our park. In our view, signs of any nature will detract from the overall appearance of our parks and will put our success at risk.

(2) All our residents have moved into our parks on the understanding that no signs will be permitted. Bill 21 will allow signs in our parks even though every resident has agreed not to post them. Those residents who do not want signs posted and have a written agreement confirming

that no signs will be permitted will be forced to live in a community which allows signs.

(3) Again, we ask to be treated the same as all other businesses in the province. If it is found that contracts prohibiting signs are unconscionable and against public policy, we ask that these provisions be prohibited in all contracts formed in Ontario.

Next is the reserve fund requirement. We're opposed to it for the following two reasons:

(1) The additional cost that a reserve fund requirement will impose. The cost of setting up a trust fund, hiring a prescribed person to conduct the study and the requirement of deducting a fixed amount into the reserve fund could prove onerous.

(2) Again, we should not be put at a competitive disadvantage. As a result, any reserve fund requirement should be extended to all owners of residential premises as defined by the Landlord and Tenant Act.

Finally, section 16, the Rental Housing Protection Act section: We're opposed to it. There should be an overall policy of encouraging tenants to become the owners of their parks. Prior to extending the definition of "rental property," the following question should be asked: Will extending the Rental Housing Protection Act to cover mobile homes promote the concept of resident ownership? In our view, resident-owned communities should be encouraged because of the pride of ownership, the greater security and the greater control resident owners have over the maintenance of their parks.

## 1130

The key questions: Will Bill 21 encourage the development of future parks in the province? Will Bill 21 create jobs?

I can only speak for my family, and if the bill passes in its current form, there's absolutely no way we will attempt to start another park. I figure that if you don't get families like my family to start developing these parks, I don't think anyone else will do it because we've done it in the past and we have a good relationship with our manufacturer. We wouldn't develop another park because of the new restrictions on the rules which we can set, such as the sign rule and the right of first refusal. We wouldn't develop another park because of the reserve fund requirement and also section 14, the new plan-of-subdivision requirement would stop us. If Bill 21 passes in its current form, there's no way we'll be creating new jobs in the manufactured housing industry.

A second key question: Does bill 21 put successful parks at risk? Should existing rights of first refusal be taken away and should signs be permitted despite a prior existing agreement?

I think for you to properly answer that question, you should visit our park, Kenron Estates, and you should visit one of our neighbouring parks, Trenton Trailer Park, and you should ask yourselves, what type of park do you want to be promoting? If you want to promote parks like ours where the owners care about the appearance and set rules and regulations, such as no signs, a right of first refusal, no unlicensed vehicles, no fences, then you should be striking out sections 11 and 12. If you want to

encourage the type of park where the owners don't care and they allow signs and they don't have a right of refusal—I don't think you should be encouraging that type of park because of all the problems we've seen in the Trenton area.

One other issue on this sign issue that I think you should address is this false assumption that somehow these no-sign provisions and these rights of first refusal are this great hindrance to a tenant's ability to sell their home. False. Our park is probably one of the most successful parks in the province and we don't allow signs and we have a right of first refusal. Before making the assumption that no-sign provisions and rights of first refusal are a great hindrance, make sure you have the facts and the data in front of you.

The final question I have here is: Does Bill 21 promote the concept of resident ownership? Will Bill 21 encourage tenants to purchase their parks?

In my view, the answer is no. The expansion of the Rental Housing Protection Act will discourage resident ownership because with my interpretation of the act, it will require municipal approval prior to any conversion to resident ownership. Instead of making it more difficult for residents to own their parks, you should be encouraging it. You should be providing such things as loan guarantees to tenants who want to purchase their parks and you should be making the conversion process to resident ownership easier, not harder.

One other thing, too, about section 16 dealing with the Rental Housing Protection Act: I would advise you that prior to adopting it you make sure you understand every section, every line of section 16, as well as the current Rental Housing Protection Act. I found it was extremely difficult to read and a lot of people are going to be affected by that section if it does go through.

Finally, I think the overall policy of the bill should be to promote well maintained parks and to promote resident ownership. In my view, this bill does nothing but perpetuate the rental model, which we all know is not working.

**Mr Mills:** Thank you, Mr Maxfield, for coming here this morning and telling us about your views and ideas about the proposed legislation.

I'd like to ask you a couple of questions. The first one is about your right of first refusal. I've got a home there. Am I going to suffer some sort of discount with your company?

**Mr Maxfield:** No, the actual wording of our right of first refusal is, "During the term of the agreement, if the resident receives a bona fide offer which the resident is willing to accept, then the resident must send us a true copy of the offer to purchase," and then we have 72 hours to purchase it on the same terms.

**Mr Mills:** The same terms?

**Mr Maxfield:** Right.

**Mr Mills:** So if I'm offered \$100,000 for my property, I've got to come to you and say: "Look, I've got an offer for \$100,000. You've got 72 hours to match it or else you"—

**Mr Maxfield:** Right, we would have to pay \$100,000.

**Mr Mills:** Okay, thank you for that. I want to talk a bit about signs. Believe it or not, I own a mobile home in Florida.

**Mr Sean G. Conway (Renfrew North):** No.

**Mrs Marland:** No.

**Mr Mills:** Yes.

**Mr Conway:** You've got to bury those pensions someplace.

**Mr Mills:** Yes, that's right.

We have a park and we have all kinds of rules and regulations which I really enjoy having. One of them is our right to sell. We have an association down there and we have a policy—like you folks, we, in our association, didn't want signs all over the place because it didn't look nice. But we have a policy whereby we are allowed to place one sign in a window of our home so that people driving by in the park can see that.

Now, personally, coming from an age of law and order, which I subscribe to, believe it or not, I can accept that sort of policy. You seem to be absolutely adamant that there's no signs anywhere. I just wondered if you'd be willing to accept that sort of friendly amendment, if we did that.

**Mr Maxfield:** No, I wouldn't.

**Mr Mills:** You wouldn't?

**Mr Maxfield:** No, because, for example, I live in our park. I have an agreement that says there will be no signs. I don't want any signs in our park because I think it's going to detract from the appearance, and everyone has agreed to no signs. Even if there's one person who doesn't want the signs—and, in my view, the majority of the people in our park would not want signs—why should they be subject to the signs if they've got that written agreement? For everyone who comes into our park, we make sure our sales staff goes through every provision with them. Everyone knows there's not going to be any signs. To change the rules halfway through the game I don't think is right.

**Mr Mills:** Don't you think—

**The Chair:** Mr Conway.

**Mr Conway:** I want to just take a moment and say, Mr Maxfield, that your brief is extremely clear and to the point and helpful. I was very impressed by it and I have only one question.

I accept what you're saying. You seem to be a very credible witness and you've undoubtedly had a lot of good experience, as has your family, and you've invited us to go down and take a look through your part of southeastern Ontario, which I know very well, and compare Kenron Estates with another park which shall remain nameless.

Accepting, as I do, what you have said about the good and capable management and, apparently, the good relationship you have between owner and tenant at Kenron Estates, and knowing, as I do, from reading the Trentonian and other local papers, that there is something other than happiness at another neighbourhood park, my question to you is a very simple one: What do we do,



those of us in public office, whether we're on the Trenton city council or in the Legislature, with the bad cats? There are some wretched cats out there who do the most horrible things on a repeated and ongoing basis. My experience is that most of the people most of the time, be they landlord or tenant, are good people of goodwill. But the bad cats are indescribable. Now, what do we do with the bad cats?

**Mr Maxfield:** I think the answer's pretty easy: You try to get rid of them.

**Mr Conway:** How?

**Mr Maxfield:** By trying to encourage your residents to buy their parks or getting out of the landlord and tenant model, which we know is so adversarial.

**Mr George Mammoliti (Yorkview):** Do you agree with that, Sean?

**Mr Conway:** I think you make a very good argument. I must say, I've been here a fair length of time. There are a reasonable number of these—

**Mr Maxfield:** I do think the bad cats should be punished; I do.

**Mr Mills:** Buy them out.

**Mr Maxfield:** But not at our expense.

1140

**Mrs Marland:** This is what makes this whole subject so difficult, the fact that there are poor operators that I'm sure the Ontario Land Lease Federation wouldn't want as members. It is not an easy problem to resolve.

On the one hand, people go into these beautifully well-run, well-operated retirement communities because they want to make a lower investment, but if they have to turn around and buy out the bad cats, as you have suggested, in the poorly run parks, then they no longer have a small, lower investment. Maybe it becomes a cooperative and they're part of a share in a bigger responsibility. This is what's happening in Mississauga with Cedar Grove. That community is looking at taking on a multimillion-dollar mortgage. It's not easy to resolve it.

Believe me, I am someone who believes in property rights and, as I said to the previous presenter, part of the problem here is that there are two property owners: there's land and there's built property and that's why it's very important that we listen very carefully to all of you because you have the experience as a business; we're going to be hearing from people who have experience in it as residents. We're only just common-or-garden legislators who are trying to help find a solution that's equitable to everybody and I think both sides recognize that there has to be an equitable solution.

One of the frustrations I had listening to you is the fact that you have to be here talking about the reserve fund and that's now gone. So we're in this mess where we're going to be hearing from people all day wasting time addressing stuff that's going to be removed.

I wanted to ask Mr Wessinger, again, is there anything—we got the amendments yesterday and unfortunately my staff were ill and I have not been able to read the amendments since receiving them yesterday—in the amendments that addresses the Rental Housing Protection

Act? I've been told, but I haven't read it for myself, that every item under the Rental Housing Protection Act has been changed. I want to know if that's true because if it's true, it governs the questions that I ask the deputations today. Mr Chairman, I need to know that. Is that so?

**Mr Wessinger:** I think some clarification should be made that what you have in front of you are draft amendments and the reason we haven't had amendments filed with the clerk yet is that they haven't been finalized. It was a matter of courtesy that I extended to each of the Housing critics copies of draft amendments. I hope you will take them as drafts rather than necessarily being the final form because they were, as I said, drafts for consideration and I thought it would be of assistance to both the critics if they would be aware.

But certainly, if I might confirm, there's no question that it's the intention that an amendment may be made. It may not necessarily be made by me. I should be clear that there may be some amendments that are made by other members of the committee.

**Mrs Marland:** To the rental housing protection part of the bill.

**Mr Wessinger:** Yes.

**Mrs Marland:** By the way, I appreciate the courtesy of having the copy, but it's such a zoo.

**The Chair:** Thank you, Mrs Marland.

**Mrs Marland:** You're saying we'll be getting amendments maybe from the Minister of Housing. How are we ever going to know what's going on?

**The Chair:** Thank you, Mrs Marland. I'd like to thank Mr Maxfield for taking the time to come and see us. We appreciated your deputation.

**Mrs Marland:** What's the point in my reading them? He's just said they're drafts and there may be other changes. I mean, it's ridiculous.

**The Chair:** The next deputation is Havenbrook, and Mr Shiff.

**Mr Allan K. McLean (Simcoe East):** On a point of order, Mr Chairman: If the next delegation is not here, perhaps the one from Big Cedar could be heard at this time.

**Mr Mills:** Where do they fit in, Mr Chair? Where are they on our agenda?

**The Chair:** They are not on our agenda. If the members would like to hear from the group Mr McLean is suggesting, I would need a motion to that effect.

**Mrs Marland:** Mr Chairman, as a member of the committee, I would be happy to move that motion. These people have driven two hours on the chance that a vacancy might occur on the agenda today. I move that Big Cedar residents' association be heard at this time.

**Mr Mills:** Am I to understand that if Havenbrook do show up, they're going to be accommodated, or they're gone? It helps me make this decision.

**The Chair:** They have missed their appointment.

**Mr Daigeler:** I have no problem in supporting this motion. If they come, we normally make an effort to accommodate them.

**Mr Mills:** It's the time, that's all.

**Mr Daigeler:** I would just like you to ask again whether they're in fact here or not.

**The Chair:** Is a representative of Havenbrook in the room? If not, Mrs Marland has made a motion. All in favour? Carried. I don't have the name of the group.

**Mrs Marland:** It is Big Cedar (Oro) Residents' Association, represented by Mr Venner Lambert.

**BIG CEDAR (ORO) RESIDENTS' ASSOCIATION**

**The Chair:** Good morning. As you just heard, you have won the lottery. The committee has decided that you may be heard, and we're pleased that's going to happen. Introduce yourself and your colleagues and begin.

**Mr Venner Lambert:** We represent Big Cedar (Oro) Residents' Association. We are situated in the township of Oro, on the 13th Concession. I would like to introduce Mr Ernie Jones, our president, and Mrs Donna Fenton, our vice-president and treasurer.

We thank you for the opportunity to come before you and explain our thoughts about Bill 21. I believe you have before you a copy of our presentation, with added schedules showing a factual description of our park and its operation, along with a current financial balance sheet. I believe that our brief is fairly self-explanatory. However, I would like to emphasize several points.

In paragraph 3 of page 2, we want you to understand that we are strictly a non-profit association, with the tenants who are also the owners having complete control of our operation through the democratic process. There is no developer or private company controlling us in any way or making a profit from resales etc. Also on page 2 we stress that all leases are identical regardless of lot or home size, and at present our lease provides for a right of first refusal, which is explained in detail. We might add that in the six years we have owned the park, the association has never exercised the right of first refusal. However, under reasons for concern on page 3 we endeavour to show our distress regarding this clause of the bill, and also the clause which will permit for-sale signs to be erected on lawns.

Since at present we have between 60 and 70 widows living in the park, we feel that having a central bulletin board showing homes for sale, with a phone made available in the lobby of our administration building, makes for a much safer condition for those who are alone and vulnerable. We'd like to pass a picture around showing our bulletin board, if you wish.

We would also ask that you take a serious look at the request being made by the association and in your deliberations consider if it is the best policy to bind all land-lease communities to the same legislation or if parks such as Big Cedar should be allowed to retain the policies they now operate under and allowed to control their own destiny, as we have in the past.

We want to thank you for listening, and we will be glad to answer any questions you might have.

1150

**Mrs Fawcett:** I'm very happy that you were able to get to be heard this morning.

**Mr Lambert:** So are we.

**Mrs Fawcett:** Yes. That's very, very good. How long have you been in operation?

**Mr Lambert:** We have owned the park since 1988.

**Mrs Fawcett:** And everything right now operates very well with the tenants and your association?

**Mr Lambert:** Oh, definitely. We have a board of directors who are elected annually, and you have to be an owner of a lease before you can be a member of the association.

**Mrs Fawcett:** And the fact that you don't allow signs doesn't hinder anyone? Everyone is happy with that? Has anyone ever, let's say, sold their home and the purchaser didn't realize that the land wasn't theirs as well?

**Mr Lambert:** No. This has always been explained very thoroughly, because up until now our administrator has had a dealing with each sale in order to explain the rules and regulations of our park and also the type of lease they are signing. We are all thoroughly acquainted with the fact that we are only leasing the property and are not owners of the particular lot that our house is sitting on, but we are owners of the total property.

**Mrs Fawcett:** Of course, we don't really know what Bill 21 is ultimately going to turn out to be, because supposedly we have many amendments we're going to be dealing with that could change the bill considerably, and hopefully you will be watching for that so you can comment on the changes. But you feel there are definite parts of the bill that you want to see changed, the ones you have mentioned here.

**Mr Lambert:** We want to see those two or three clauses changed, yes, because we feel they would be detrimental to parks such as ours the way they read now.

**Mrs Marland:** Really, your park operates similarly to a condominium corporation; you have an elected board.

**Mr Lambert:** That's right.

**Mrs Marland:** How many sit on the board?

**Mr Lambert:** Six directors and the president.

**Mrs Marland:** So it's seven. It's two more than a standard condominium board.

**Mr Lambert:** The reason we have done that is because we find that during our winter months we'll usually have two or three members of the board absent who will be in the south or something of that nature.

**Mrs Marland:** You have a paid full-time administrator, do you?

**Mr Lambert:** Yes.

**Mrs Marland:** This advertising board for the homes for sale: Is it at the entrance to your development?

**Mr Lambert:** No, it's just outside the door of the administration building, and there's a phone just inside the lobby, which is open 24 hours a day, for anyone who comes and reads the board and sees a house there they'd like to know more about. They can phone the number that is listed and someone would come and take them around and show them the house. We do not like to have widows who are by themselves alone in a house when someone comes to look at it, so we try to make sure that



she has another person with her.

**Mrs Marland:** I can certainly understand that. That's an excellent system, actually, that you have. Also, I imagine that your concern relates to the fact that you want to maintain the community as an adult community.

**Mr Lambert:** Definitely.

**Mrs Marland:** That's why you want the first right of refusal.

**Mr Lambert:** Yes, we do.

**Mrs Marland:** But I also understand there are a lot of operators of these developments who also want the same thing, because that's what they were designed for in the first place.

**Mr Lambert:** I can understand that, yes. I think our situation is perhaps unique in that no one can stand to gain through the operation of our park, since we are the masters of our own destiny.

**Mrs Marland:** When it was originally established, who bought the land originally?

**Mr Lambert:** It was owned by a developer, and the people who bought in there prior to our taking it over were given a date when that park would be turned over to the residents. It was May 1, 1988. It was turned over to us for \$1, he having made his money out of the sale of the leases, and at one time he owned quite a number of the mobiles in the park.

**Mrs Marland:** Isn't that interesting? That particular developer was satisfied with his development revenue at that point. So he got into it with a time frame and an investment payback that he was looking for.

**Mr Lambert:** That's right.

**Mrs Marland:** That's quite simplistic, isn't it?

**Mrs Donna Fenton:** There are only 230 sites, and the park is now full. When the last house went in, that year, 1988, everything had to be completed by June 1988 and then it was turned over to the association and we have managed it ever since. By the way, we do have a reserve fund and we're quite pleased with our reserve fund, but that's a different subject.

**Mrs Marland:** You would need to have, though. That's what I mean. That's why it's similar to a condominium. You would need to have reserve funds, because where else are you going to get the revenue to do anything major that develops?

**Mrs Fenton:** We don't have a problem with that.

**Mr Lambert:** I would suggest to you that when we took the park over, we had something like \$25,000 at our disposal and we immediately turned around and borrowed money from our own residents to the tune of over \$100,000. This has all been paid back and we have now accumulated a reserve fund of—what is it?

**Mrs Fenton:** We have \$217,000 on hand at the moment. That's not our total assets.

**Mr Lambert:** So in six years' time I think we have proved ourselves to be pretty good operators.

**Mrs Marland:** You said all the leases are identical. What is the average rent?

**Mr Lambert:** It's \$145 a month, and that takes care

of grass cutting, snowplowing, closing homes for people going south, our water system, cable TV and operating a nice clubhouse and this type of thing.

**Mrs Marland:** You certainly have a unique operation and we certainly appreciate your coming down to tell us about it today.

**Mr Mills:** Thank you, sir. I think you and I clashed on the Barrie annexation years ago. Right?

**Mr Lambert:** Could be.

**Mr Mills:** When I was on the council up there. I remember the name, and I asked my colleague and he said, "Yes, that's the guy, from Vespra."

Anyway, I'm not going to say anything adversary to your presentation. I'm going to leave some time for my colleague Mr Wessinger. I'd just like to say that I thought it was very well documented. It seems to be the sort of place that even an oldtimer like me would enjoy.

**Mr Lambert:** Glad to have you.

**Mr Mills:** And since I have roots in the Barrie area, who knows. Thank you very much for coming.

**Mr Wessinger:** Welcome here again. I had contact with Mr Lambert when I was on council in Barrie too, so I'm very pleased with your presentation. Certainly when you make some recommendations, we really ought to pay attention, because you are a resident-owned park.

You have some problems with our first right of refusal. We've heard today several first rights of refusal that provided, like yours, 72 hours to match on the same terms and conditions. Would you have any problem if the first right of refusal were amended to put that in as a requirement for a first right of refusal, in other words, it would be standard, 72 hours to match the purchase price on the same terms and conditions? Would that be agreeable to you?

**Mr Lambert:** I would think so.

**Mrs Fenton:** Yes, I think so.

**Mr Wessinger:** The other thing I'd like to just raise with you is that you've raised the question of for-sale signs. We also had a presentation this morning from a legal clinic which suggested we should look at the broader issue of looking at restricting any prohibitions that might affect the marketability of the units and taking a broader approach. Your bulletin board is certainly one other alternative. Would you be in favour of the legislation being changed to take a broader approach with respect to prohibiting restrictions on advertising the sale of units to try to make them more marketable?

**Mr Lambert:** I'm just not certain of your question.

**Mr Wessinger:** Okay. A suggestion was made that, for instance, sale signs were not the most important item in conducting a sale. From your experience in your area, has there been any difficulty in people selling their units?

**Mr Lambert:** We average about 10% a year, and you won't find more than two or three homes for sale at any one time.

**Mr Wessinger:** The bulletin board works very well.

**Mr Lambert:** Very well.

**Mrs Fenton:** In fact we have a waiting list of people

who would like to get into the park, and because there are various sizes, there doesn't seem to be any problem at all selling houses. We have a good turnover and people coming all the time.

**The Vice-Chair (Mr Hans Daigeler):** Thank you again. We were glad to accommodate you.

**Mr McLean:** Mr Chairman, I'd like to thank you for hearing them at this time. I appreciate it.

**The Vice-Chair:** Thank you for suggesting it.

The committee stands adjourned until 2 o'clock.

*The committee recessed from 1202 to 1401.*

SUBWAY MOBILE HOME PARK  
TENANT ASSOCIATION

**The Chair:** Our first deputation this afternoon comes from the Whitby Subway trailer park. Good afternoon.

**Mr Bernie Emoff:** I am Bernie Emoff, president of the Subway trailer tenant association. With me are Ken Brushett and Terence White, members of the association.

Chairperson and members of the committee, I am here to ask you on behalf of our membership to pass Bill 21. Our association feels that Bill 21 affords us some of the protection that is necessary to protect our membership in a much greater way than we have presently under the Landlord and Tenant Act. We are specifically concerned with those sections of Bill 21 which amend the Landlord and Tenant Act as well as the Rental Housing Protection Act dealing with non-seasonal mobile home parks.

Subsection 10(1) of this bill, which amends section 125 of the Landlord and Tenant Act, will require the landlord to put any refusal of consent in writing. It is very important to those tenants who are affected. We know at first hand what it is like to have a landlord who will not put anything in writing. This leaves the door open for the landlord to say that they did not refuse consent, which leaves no choice for the tenant but to take the landlord to court to have this matter resolved.

If a tenant has something in writing, it gives them a better chance when fighting such refusal in a court of law. We know this, as a matter of fact, because we had to take the landlord to court for this very reason. Although we did win the case, a tenant should not have to go through such a hassle just to buy, sell or lease his mobile home in the park. It takes a lot of time to get to court. The uncertainty is very stressful to any tenant affected.

Section 11 of this bill amends section 125 of the Landlord and Tenant Act by removing the right of first refusal. It would make any agreement with a clause containing the right of refusal void. It is the feeling of our committee that no landlord or any agreement should have the right to stop someone from selling their home to whomever they feel makes the best offer. This is what we believe this amendment will do: allow a person to sell to whomever they see fit.

We are also in agreement with 125.2, which gives the tenant the right to put a for-sale sign on his or her mobile home, or on the site where the mobile home is situated.

We are also in agreement with section 12 of this bill, which amends section 128.2 of the Landlord and Tenant

Act. This section gives a better definition of what "residential premises" are. Bill 21 gives this definition to non-seasonal mobile home parks whether the mobile home is owned by the landlord or not. The majority of mobile homes in our park are privately owned, so this section will affect us directly.

We are also in agreement with the proposed amendments to sections 128.3 to 128.7 of the Landlord and Tenant Act, which deal with setting up a reserve fund to provide the necessary funds to make sure that repairs needed to roads, water, sewage and electricity are done in a timely fashion. The way it is now, we must have the town place an order to have work completed. It takes time to have the town take action. When they do, our landlord will claim he doesn't have the funds to do the work or he will ignore the order. This leaves the town with no choice but to take court action. They are reluctant to do so. We have been waiting for at least 10 years to have our roads and hydro brought to a reasonable state of repair. With a reserve fund set aside for this purpose, we believe we could have such repairs done without all the delays we've been experiencing for quite some time.

Section 13 of Bill 21 amends section 130 of the Landlord and Tenant Act by adding clauses (b.1) to (b.6) for the purpose of governing the scope and extent of the reserve fund. It is very important to us that both the landlord and tenants know exactly what a reserve fund is and how that fund is to be controlled.

Section 16 of this bill amends the Rental Housing Protection Act by defining what a "rental property" is under the act. It states that non-seasonal mobile home parks or related groups of those parks in which one or more rental units are located are rental properties. This section also defines what a "rental unit" is by treating the site on which a mobile home is located, being a permanent structure, as rental residential premises. The reason we strongly support this section is that it gives our members a better sense of enjoyment and peace of mind while living in their mobile home.

Subsection 16(4) is of utmost importance to all mobile home owners as it defines "mobile home." This eliminates any confusion around the difference between a mobile home used as a permanent residence and a travel trailer. For example, during a recent court case, we discovered that even the judge wasn't sure of the difference between the two without asking the question, "What kind of trailer are you talking about?" He thought we were referring to a travel trailer and not to a permanently-set-up mobile home.

Subsection 16(5) adds the clear definition of a rental unit, which would include a mobile home even when it is owned by the tenant of the mobile park.

For this reason, we support and strongly feel that section 16 of this bill gives to tenants living in a mobile home park, by definition, almost the same, if not the same, protection as those tenants living in other rental units under the Ontario housing protection act. Therefore, on behalf of the tenants of Whitby Subway Mobile Home Park, we strongly urge that you pass Bill 21 as soon as possible.

In conclusion, we wish to thank you for allowing us



the opportunity to present to you today our thoughts and feelings about the importance Bill 21 could have on our membership.

1410

**Mr David Johnson (Don Mills):** I would like to thank you for what was obviously a very thoughtful, excellent presentation based on a great deal of experience. However, you have a great deal more experience than I do on this particular matter. I'm just slipping in here this afternoon, and I must admit up front that I'm very unfamiliar with this issue, so I'm going to ask you to elaborate on some of the problems you've alluded to.

You mentioned that to buy, sell or lease you've had to go to court. Maybe you could describe to me in a little more detail what's involved there. Is it in each instance where a mobile unit is to be sold that you've had to go to court to achieve that end?

**Mr Emoff:** We only had the one case. In the last couple of years, this was the first one to be sold. I've only been president of the tenant association since last May. What happened was that a fellow bought a mobile home in the park and the landlord did not want to give him consent to move in unless he signed a tenancy agreement which was partly, if not all, illegal. We took the landlord to court based on those things because the person did not want to sign a tenancy agreement he felt was illegal. We brought the landlord to court and won the case. The person was allowed to move into the mobile home and the landlord had to pay the court costs. A restraining order was brought against the landlord because the landlord was threatening to kick him out of the park, tear his trailer out and put it on the side of the road, things of that nature.

**Mr David Johnson:** You're representing one particular trailer park. Is that something that happens in other trailer parks as well, to your knowledge?

**Mr Emoff:** I can't answer that. This trailer park is my first experience.

**Mr David Johnson:** You mentioned the municipality. We're talking about Whitby here, I presume.

**Mr Emoff:** That's right.

**Mr David Johnson:** When you were talking about roads, water, sewage, that sort of thing, I presume you mean the roads within the trailer park itself and the water supply and the sewage.

**Mr Emoff:** Right.

**Mr David Johnson:** You put in a request to the municipality, to Whitby, some time ago, several years ago, was it?

**Mr Emoff:** That's right, and they did bring court action, but the work never got done because the previous landlord sold the property.

**Mr David Johnson:** So there was an agreement or an obligation on the part of the landlord to supply—we're talking about underground water, underground sewage?

**Mr Emoff:** That's right.

**Mr David Johnson:** And what they failed to do is connect that. I presume on the main street there is a sewage system and a water system, is there?

**Mr Emoff:** There is on the main street, but that's not the problem. The problem with the water and the sewerage is that when they put the pipes in to supply the water and the sewerage to the mobile homes, they were not of regulation standards. So you have problems with the lack of water supply, for one thing.

**Mr David Johnson:** The pressure is not adequate.

**Mr Emoff:** Yes, and some people have problems with sewerage backup.

**Mr Drummond White (Durham Centre):** I thank the government members for allowing me a little time.

I'm very pleased to see you come forth, Bernie, Ken and Terence. I liked your presentation. You came up with a lot of very succinct points about what's good in this bill. I'm sure Mr Wessinger was listening intently, probably taking notes that this is what people from across the province are saying.

I'm particularly interested in the lot that your trailer park has had to endure. You've talked about many different owners, flipping back and forth. I've been in your trailer park on many occasions, and in the spring it reminds me of the worst of those films we've seen about the First World War, with the mud going down about six inches. It's very difficult to negotiate that with any kind of vehicle. You wouldn't want to walk in it; you'd probably drown. And, of course, the water issues.

In terms of electricity and those roads, such as they are, I'm wondering how it is that they could be left in such bad repair. Could you tell us a little about that?

**Mr Emoff:** I'll try. The reason the roads are left in such a bad state of repair is because of the number of different owners we've had over the years. The previous owner was taken to court by the town of Whitby, was ordered to do all the repairs, and then he sold the property. Then the new owner comes along and the new owner will not comply with the court order that was given to the previous owner.

We have been in touch with the town on a number of occasions. The town is calling him and asking him to do the work, but it is reluctant to take him back to court because it feels that might take two or three more years. They would rather see it worked out by phone or by agreement than have to take the person to court. That's one of the reasons it's taken so long.

**Mr White:** With a reserve fund, the moneys for that kind of work would be available. There would be insurance that work would be done so you wouldn't have to feel you're living in Third World conditions.

**Mr Emoff:** I believe that's what the reserve fund is set out to do, from my reading of the bill. I'm not a lawyer, so I can't say what the legal thing is, but the way I read the bill, yes, we would have the right to dig into that reserve fund to have those repairs done.

**Mr White:** You would be able to ensure that vital services are provided for hundreds of people in that park. Your park would immediately benefit substantively.

**Mr Emoff:** Oh, it definitely would.

**Mr Daigeler:** Thank you for coming before the committee, because yours is the first presentation which

clearly supports this bill. Most of the presenters this morning were quite critical if not very critical of this project. The main argument being made, I must say mostly by the owners of the parks, was: "The system works fine, thank you very much, the way it is. We can straighten out any problems we have with our tenants; there's usually a good relationship. What this bill will do is make the arrangement so complicated and costly that we may be forced to give up the parks, and that will make it a lot more difficult for affordable housing to be obtained." Do you wish to comment on that argument?

**Mr Emoff:** If the landlords here this morning were saying everything is fine the way it is, it definitely is not, in our case. I can't talk against all landlords, because I don't know them. It's quite possible you would have some landlords who are good, who would sit down with the people and straighten things out. In our case, that is not possible. We have tried on three different occasions to have a meeting with the person, and each time he refused. We ask him to put things in writing. He says he won't put anything in writing because it might get him over a barrel.

It's possible that there are good landlords out there. I wouldn't say all landlords are the same as ours, but we need this bill, especially in our case, because we're getting nowhere with this fellow.

**The Chair:** Thank you for taking the time to come to the city to speak to us today. We appreciate it.

1420

Before I call for the next presentation, this morning Mr Daigeler made a request to the Ministry of Housing to provide some documents. I think it would be appropriate to have a report from the ministry at this point.

**Mr Noah Morris:** My name is Noah Morris. I'm a policy adviser with the Ministry of Housing. The question was asked about an interministerial committee report that was produced through our ministry, acting as chair for a number of ministries in liaison with the private sector and a number of tenant groups. The report was completed, but it was part of a confidential document that was used to give advice to cabinet, so it wasn't released publicly. That was the reason it was not released to the public.

**Mr Daigeler:** What you're saying is that this is a cabinet document that still cannot be made available.

**Mr Morris:** That's correct. There was an FOI application on it, and it was ruled on that FOI application that it was a cabinet document.

**Mr Daigeler:** So there has already been a request?

**Mr Morris:** Yes, there was.

**Mr Daigeler:** I see. And that committee has ceased to exist, is no longer operational?

**Mr Morris:** That committee ceased to exist in the summer of 1992, and the report was completed in the summer of 1992.

**Mr Daigeler:** So the report concluded the work of that committee?

**Mr Morris:** Yes.

**Mr Daigeler:** And we can't have the results?

**Mr Morris:** It's a confidential document.

#### FORREST ESTATES INC

**Mrs Marie Hughes:** Good afternoon, panel. My name is Marie Hughes. I'm with Forrest Estates. I'd like to introduce my husband, Ken. We are here today to express our comments on Bill 21.

First, we do not feel that, if passed, this bill or parts thereof should be made retroactive from May 19, 1993, but rather should be effective from the date the bill receives royal assent.

In regard to the right of first refusal, we have never implemented the right of first refusal in our land-lease development, the reason being that we have never had excess funding to enable ourselves to be in a position to purchase the homes from the home owners wishing to sell. However, we do have a concern that in trying to keep the standards of our development up, we have found ourselves in the situation in a number of instances where a derelict mobile home has come on the for-sale market.

If I could just stop my presentation for a few minutes, I have brought some pictures with us today which really do refer to my presentation and in many instances refer to the standards of our particular development. I'll pass them around.

To continue where I left off, these chattels at today's building standards and requirements would actually be deemed to be less than the building standards of today's recreational vehicles. Some of these older mobile homes were built at a time when double- and triple-pane windows, insulation, and housing and building standards were not what they are today. Add to this the fact that some of these mobile homes have not had any upgrading or general maintenance over the years.

At what point in time do these chattels cease to be marketable as what we would consider to be year-round housing? How does a land-lease community owner bring these units up to standard so they do not depreciate the park as a whole or further depreciate the land owner's business value? How can a land owner have these units removed and replaced with an acceptable home, if not for the right of first refusal? Is there something specific in the present Landlord and Tenant Act that addresses this problem? Perhaps it is time there should be.

We have found that these derelict homes seem to always attract a new owner who usually cannot afford and does not do any maintenance or improvements either, and the home further declines and depreciates homes around it. It would appear that the only way to resolve this problem is for the land owner to purchase it and remove it, another added expense, to keep the community park standards up.

In regard to the section on for-sale signs, we feel the majority of land-lease residents do not wish a multitude of for-sale signs within their neighbourhood. In the development we live in, we have built a communal glass-enclosed case, and I do have the picture going around. We have situated this at the entrance to the park, where homes listed for sale are featured with a coloured picture along with a complete description, including all costs and inclusions, and a map of the community showing the location of the homes for sale. Our sales office is located



within the community, and after the potential purchasers have viewed the board, they have the opportunity of stopping at the office, requesting additional information and a viewing of the homes they may be interested in further.

Our sales office spends a great deal of time and expense in promoting our development far and wide. The posting of even simple handmade signs, stuck on lawns or in a window, would allow some tenants to capitalize on sales solely at our expense and at absolutely none to them.

There was a time when we did allow the posting of signs in windows. In these instances, we found that residents used this as an avenue of retaliation if we found it necessary to request them to abide by park lease and regulations. We had a few situations where orange and black Home Hardware signs would be left in the window for two years straight, badly sun-faded. No customer actually got a viewing, and this sign even remained in the window for six months each year, for two years straight, while they wintered in Florida.

These are, without a doubt, not sincere and motivated sellers. We, the park owners, did not find this enhanced our business, neighbours did not appreciate it, potential customers were extremely annoyed and confused and the owners of the home didn't care. To them, it was a way of retaliation and aggravation to management and no doubt quite humorous to them.

On the flip side, when real estate agents become involved, the prospective purchasers had been told very little about the park, for example, lease, regulations, standards, future plans. Perhaps it wasn't their business to know. On many occasions, we as management never received the required 60-day termination notice or no notice at all. We never even met the new resident tenants until they knocked at the office door to state they were moving in in a couple of days.

Add to this that some real estate agents had told many a purchaser false statements. It would appear they either listened to false rumours or perhaps their main objective was to close the sale and collect a sales commission. It certainly did not have the best interests of either the vendors, the purchasers, or park management. After the sale closing, it was park management that was left with immediately unhappy residents.

In regard to the reserve fund, when rent control legislation was introduced, the vast majority of land-lease communities/mobile home parks were caught in a situation where their rents were more often than not less than \$100 a month, at a time when apartment buildings were receiving \$500 and up. Land-lease mobile home parks were grouped into the same act as apartments. This is like comparing apples to oranges. The only thing in common is that we both supply living accommodation. The similarity pretty much ends there.

The act in rent review refer to capital expenditures such as roof replacement, kitchen appliances, carpeting, elevators etc, but never any mention of the problems of maintenance regarding land-lease parks, such as miles of street maintenance, backhoes, graders, garbage pickup, snow removal, drainage, sewage disposal, wells, pump-

houses, and I could go on. The time is long overdue for legislation that deals solely with land-lease mobile home parks as their own entity and doesn't lump them with apartment complexes. Are apartment buildings made to set aside a reserve fund? I have spoken to many other park owners and the general consensus is that it is tough enough in these depressed economic times to keep up with all the stipulations already imposed on our business without this added expense. I suppose we are to absorb this added expense, as we absorbed the GST and the more recently implemented PST on gravel and insurance, without any means of passing it on to our consumers.

I would like to take this time to raise the issue that we are a business and not government-supplied housing. Any other business owners, if they reach a situation where they are unable to make a living and meet their financial commitments, let alone realize a profit, certainly have the choice to cease their business and seek other employment before they find themselves forced into bankruptcy.

We do not seem to have this choice. We can't simply quit our job. We must continue, or try to find a purchaser of our business, but who would want to purchase a business that is strapped with such a low income and rent review legislation governs any future income? We are finding it more and more difficult to carry on with legislation geared to apartment complexes.

In summation, I think the panel today will find that the majority of park owners are family-oriented. We are not big-money investors and absentee or slum landlords.

The implementation of this bill as it presently reads disturbs our future and the future of our children. My young offspring observe the ongoing frustration we are going through and are seriously contemplating another job/career, one in which they may have an opportunity to be reimbursed for their labour. As Henry Ford stated, "I thought someone would have to know all about a company before someone tries to operate one."

In closing, we, the willing, led by the unknowing, have been doing so much for so long with so little that we should now be able to do everything for nothing.

1430

**Mr Mills:** You said one or two things that prompt me to make some rebuttal. It's no secret that there are a lot of folks who operate parks like yours who are, as you say, aboveboard, decent people and do things right. It's unfortunate that we as legislators are pressured by constituents to do something about all those people who aren't doing it right and aren't doing it aboveboard.

There's this idea out there that somehow this is the NDP's idea. It isn't the NDP's idea. It's a response to many thousands of constituents' problems. Speaking for our caucus, we have 32 members who represent ridings with at least one, sometimes several, mobile home or retirement parks or whatever. All 32 members in our caucus are supporting this bill because we recognize that in all our constituencies we have problems.

You say, "The implementation of this bill disturbs our future and the future of our children," but I put it to you that as legislators we're equally disturbed that there are people who are not playing the game with the people we

represent, and as a result we have an obligation to come here to Queen's Park to do something about it. How does that fit in with your rationale that it disturbs you?

**Mrs Marie Hughes:** I really am fully in agreement with what you said. We've been in the business for 24 years, and without a doubt there are problems and I think they should be addressed. I think it's long past time that we have a bill which deals with mobile home land-lease parks and does not lump us into something that really deals with apartment buildings, because of the problems that have been discussed today.

All I would like to see is something that is implemented that is fair for both parties. I'm really disturbed with what seems to be occurring with all these acts. These acts are now putting landlords and tenant residents as adversaries. We're in it together. We're there to supply housing; they want nice housing. I'm just concerned that if it's not addressed properly that bad landlords—there's going to be legislation put through that penalizes good landlords. I don't think everybody should take the bum rap for what they are doing.

We've worked very hard. We've always taken pride in our development. The pictures will show that we're not the only ones who have pride in our development, but the home owners also have the same pride. We were very well liked by the majority of the tenants, our neighbours, and I think we still are today. With some of these acts that have been implemented, I feel there are always a few unhappy people and I will say there are always a few troublemakers in every community, whether it be our community or within the community you live in. I'm just concerned that if things are left the way they are, how do you eliminate the problems within your community?

**Mr Mills:** I think you and I differ about the definition of—you said a troublemaker. We receive all these things from folks who can't come here, and you should read some of this stuff. It's scary what people are going through. I'll just wrap up by saying that we have police on the road because people don't obey the speed limits. If everyone obeyed the speed limit we wouldn't need police. It's the same with this legislation, unfortunately.

**Mrs Marie Hughes:** But you don't penalize everybody for the few who break the law. That's my only concern.

**Mr Mills:** But the presence is there. This bill is there to protect not only the people I represent but many others.

**Mrs Fawcett:** Thank you for your presentation. Certainly the pictures did add to our recognition of a good trailer park.

**Mrs Marie Hughes:** This is all we want, that I think everybody who is making presentations wants.

**Mrs Fawcett:** You were present for the presentation before you. What sort of answers might you have for that particular group? They are suffering, no doubt about that. There are groups out there—I've got one in my riding—that don't have a good landlord; at least that's what they're telling me.

The bill Mr Mills says his caucus is supporting isn't really the bill we probably will be looking at, with the 27

amendments. I'd be interested to know. Are they a party to all of those and do they agree? But that's for another time.

**Mrs Marie Hughes:** In our municipality we have zoning as a mobile home park and our municipality has certain stipulations and regulations we must abide by. The stipulation we must abide by is that we keep the roads in functional order, and the Landlord and Tenant Act covers the same thing. If a person is not going to live up to his commitments, he's not going to live up to his commitments whether he be a landlord or any other segment of society, and there are ways and means of making that individual come up and submit to the standards he's supposed to. You have to treat every individual person or company as the individual. I'm just concerned that because of all these horror stories, we're all going to be grouped into that as well.

I'd like to make a point. I thought I'd only have 10 minutes to speak—I didn't realize I would be able to speak for 15 minutes—so I chopped a lot of my presentation out. As has been mentioned today, and the biggest concern of mobile home parks is that as a general rule, they are very low rents. How do the company and mobile home park exist at \$100 a month, barely minimum, and keep these standards up? I can appreciate that maybe he has no intention of keeping the standards up, but we are finding it tough keeping standards up at \$150 a month.

**Mrs Fawcett:** You're saying there are laws already on the books that you are abiding by and therefore it has allowed you to have a good park that tenants and you as land owners agree on, and that if others obeyed the laws that are already there, it would go a long way to—

**Mrs Marie Hughes:** I would think so. The laws are there. The stipulations have been set out by their own municipality that these parks must abide by. When it was passed and zoned, the municipalities must have set out restrictions and legislation and standards, so the municipalities should be looking after what's going on in the municipalities. They have the right to do so.

**Mrs Fawcett:** Might there be a problem because in the beginning some of these parks started out as maybe seasonal, tent, trailer parks and—

**Mrs Marie Hughes:** But they had to go through the proper channels of being rezoned for year-round mobile living, residential.

**Mrs Fawcett:** We hope.

**Mr Ken Hughes:** If this government, Mr Wessinger being the catalyst here, is honest in wanting to solve this problem—I see two different types of people: well satisfied and I see dissatisfied. Why don't you, the government, offer a financial channel to these dissatisfied people, basically tenants, to allow them to buy that community and take the responsibility of a fair market settlement, by an unbiased committee that would balance the fair market value?

1440

**Mrs Marland:** I'd like to thank you for your presentation and tell you that we understand what it is you're saying. The issue we're dealing with here is the elephant gun approach to kill the fly, and we do understand that.



We do understand there are two sides to it.

Mr Mills actually put it all in context when he compared it with the Highway Traffic Act. We do have legislation in this province that penalizes the people who violate certain standards, certain laws, certain regulations. There has to be a way for the government, or at least our bureaucracy, to develop and draft legislation that will do that. In this case we happen to have a bill with I think 26 sections; we've got 27 amendments. Obviously, it's a badly drafted bill.

I don't have any questions of you because I understand exactly what you've said to us this afternoon, and I appreciate you being here to present your pictures of what is obviously a beautiful operation. You're small business people and we're sympathetic about the concerns you bring to this committee, just as we are sympathetic to people who live in the other kind of operation, and I know you are too.

Mr Chairman, I do have one point I'd like to ask you, however. I would like to know in what capacity Mr White is sitting on the committee this afternoon. I understand he is no longer a member of the NDP caucus and he cannot change his position on a committee until the Legislature sits on March 21.

**Mr Fletcher:** He's an independent.

**Mrs Marland:** He was appointed to this committee as a member of the NDP caucus. I would like the Chair to answer the question for me.

**The Chair:** The first thing I would like to do is thank the presenters for coming and meeting with us this afternoon.

Second, I will answer Mrs Marland's question. All members of this committee sit here at committee because of a resolution or a motion of the Legislature. Mr White, as are all other members, is here because of that motion. Mr White has resigned from the NDP caucus. That is fine. That does not change the status and it cannot be changed until the Legislature sits. We did have some discussion about substitution, and because Mr White is not a member of one of the three recognized political parties he cannot be substituted for. Mr White has every reason and every right to be here at committee.

**Mrs Marland:** But he is not a voting member of the committee.

**The Chair:** Yes, he is. He is a member of the committee by motion of the Legislature, and that can only be changed through the Legislature.

**Mr Mills:** On a point of personal clarification.

**The Chair:** A point of what?

**Mr Mills:** I'd just like to make it perfectly clear that my analogy about the police force was that we all pay for the costs of the OPP, the good guys and the bad guys, and likewise with legislation. We all bear the cost of legislation that will affect both good and bad.

**The Chair:** That's really not a point much of anything.

**Mr Mills:** It's fundamental to this discussion.

**The Chair:** I'm here to rule on procedure, not substance, Mr Mills.

LARRY GILLARD

RALPH EADES

**Mr Larry Gillard:** My name is Larry Gillard. I am a principal in Makerry Holdings. We are a company that owns and operates a 168-lot mobile home park in the town of Flamboro. In addition, we are in the process of developing a 300-lot retirement community, also in the town of Flamboro. That development has passed all provincial agencies, municipal council and regional council, and is presently being heard at the OMB.

I've offered to share my time with Mr Eades, who is also involved with a retirement community which is a development in conjunction with the University of Guelph. I will start off and give a few points on my behalf, the way I view Bill 21, and then I'll pass the floor to Mr Eades, who will continue.

I'd like to state at the beginning, before I get into any comments, that I as a landlord welcome legislation to regulate land-lease communities. However, I feel very strongly that legislation that's being presented should consider the concerns and problems of both landlords and tenants and be formulated to protect both parties and provide an environment that will encourage investment and ensure growth and confidence in the industry. I don't believe Bill 21 achieves any, or very few, of these objectives. This legislation was formulated without input from landlords or from any other industry stakeholders.

If what I read in Hansard about the presentation of second reading of this bill is correct, it seems the government feels this is a valid form of housing stock for the province. I assume they're passing this bill assuming that even with this legislation the industry will continue to grow and develop. I do not believe this is true. I feel that the industry, under the terms of this legislation, will collapse, die a slow death and in turn really be detrimental to the equity of tenants, the equity they're trying to protect.

It's been stated before, but the relationship between a landlord and tenant in a land-lease community is not the same as that in an apartment. In a land-lease community it's a hybrid. The tenant and the landlord both have a financial commitment to the development and its success. The Landlord and Tenant Act does not define this relationship and give protection to both parties in a way that will encourage the industry to grow and develop. In my view, as I've stated, it discourages investment into this type of development.

It's important for this government to develop the type of legislation that will encourage this type of development, and this can't be done by patching it into existing legislation such as the Landlord and Tenant Act. All this really does is create a maze of cross-references that are impossible to follow, interpret and even enforce.

In trying to digest what implications it may have, just as a small example, the only remedy for a landlord under the Landlord and Tenant Act for non-payment of rent or termination of a tenancy is to obtain a writ of possession. For the love of me, I cannot understand how the courts would issue a writ of possession for a lot which contains a permanent dwelling or have any means of actually

enforcing that. The remedies that are afforded to a landlord in the Landlord and Tenant Act I don't think are enforceable or even capable of being enacted in a land-lease community. That's just one small example.

We've heard a lot of discussion with the tenants with regard to a landlord requiring right of first refusal. This right of first refusal to purchase allows the landlord to control the population, both its density size as well as its composition. I think it's important to consider the rights of the group or the community as well as the individual's rights. Let me give you an example.

In a mobile home park, most of which are in a rural setting—I'll speak specifically of Beverly Hills Estates, which is in a rural setting. We have 168 lots. We supply all the water from a well. We run a sewer plant which is very similar to a sewer plant you would see in a city. Both those facilities have been designed and put into place for a certain population, engineered, for example in a retirement community, for a population density of 1.7 to 2.5 people per lot or per home.

I ask you, what's going to be the solution to the problem if, for example, I cannot control the population density and, through resales, that population density grows to 3.5 to four people per lot? I now do not have enough water to supply that community, I probably don't have enough sewer capacity to supply sewage disposal for that community, and at the same time have not looked after the investment of the other people in that community, an investment they paid for when they bought the lifestyle within Beverly Hills Estates.

The conclusion is that right of first refusal is probably the best method I have as a landlord to try to control that population density. I've had to operate on that condition only once or twice within the community, but it does allow me to at least put some common sense into somebody who's trying, in a lot that is now housing one or two people, to try to move in four or five people. Once doesn't seem to matter, but multiply that by 50% of the community and I say it causes me a problem.

With regard to the right of first refusal, if there are landlords out there who are using the right of first refusal, or abusing it, for their financial gain at the expense of the tenant, I suggest we legislate the financial requirements of the right of first refusal but don't abolish it completely.

With regard to signs, I would ask the committee to consider the following. Land-lease communities are developed on smaller lots than are commonly found in urban subdivisions, roads are narrower, and there are generally no boulevards or sidewalks. Because it's a retirement community, we do get a larger turnover than in normal subdivisions. Our concern is that, because of these concerns, there could be a lot of visual pollution that would give a negative marketing message to prospective buyers.

I think an alternative has been suggested which we would agree with. That alternative is to allow signs in the windows of a mobile home—that at least restricts the size of the type of signs—and/or provide a central directory, similar to what you would see in a shopping plaza or in a real estate office that does display and give the infor-

mation of the real estate for sale in the community.

In conclusion, I would ask the committee that it does not pass Bill 21 but, if it considers there are problems that need to be legislated, that it form a committee to gather the information and get the input from both the tenants and other stakeholders in the industry to ensure that the legislation it is providing will encourage and develop an industry and stimulate investment in that industry.

That's all I have to say for now. I'll let Ralph add to that.

1450

**Mr Ralph Eades:** I'm representing two clients. I'm a real estate consultant dealing in land development issues particularly relating to retirement, so my comments are really related to a land-lease retirement community which is being developed by a family-owned business, Reid's Heritage Homes. The primary landlord is the University of Guelph, which like a lot of major institutions has endowment lands and is looking at development potential.

The other thing I would like to comment on, and I have some empathy with the position of Mr Wessinger, is that a hastily prepared document sometimes has flaws. I wrote this two-page brief this morning, and I now notice there are two typographical errors in it, and for that I apologize.

**Mr Conway:** We won't tell anybody at the University of Guelph.

**Mr Eades:** Terrific. Thank you for the opportunity to make this presentation. There are really three primary concerns that both my clients have.

One is the public consultation approach that's been taken; that because this is a private member's bill, it does not follow the normal public process of review and comment that a government bill must follow. In my view, this is a sad statement for any government, and I guess this is an editorial, but particularly with respect to this one.

The resources to facilitate a great deal of public discussion already exist, as retirement communities have been studied by the Ministry of Municipal Affairs, and the ministry has names, addresses and telephone numbers on file in a report it has actually prepared. The ministry established a multi-ministry committee, as referred to earlier, and I was one of the representatives interviewed, assured that we would once again be given comment, an opportunity to see the document and any proposals. That has not been forthcoming. As described earlier, that was a government document, not to be distributed. That's why we didn't know about this.

It would appear there has been little or no attempt made to get input from owners and developers of land-lease communities. Certainly we're the first to admit that tenant protection has been looked at in this bill.

It is recommended that rather than amending the three existing acts—and I assure you, if you lay these out to refer to them, you can fill a whole desk—we suggest that a new act be prepared dealing with land-lease communities. Mobile home parks, be they seasonal or not, are



land-lease; simply, some structures are permanent, others are movable.

Right of first refusal: The Ontario Human Rights Code does not permit age-segregated buildings or communities unless all residents are over the age of 65. This exception was included primarily for government-funded, non-profit seniors apartment buildings, which for the most part contain bachelor and studio apartments. Neighbourhood groups and seniors both expressed concern that a bachelor apartment was of interest to student housing, and a mix of these two groups in a single complex was not in anyone's best interests.

Since the developer of a retirement community markets to purchasers generally over the age of 55, this provision in the Human Rights Code is virtually of no use. The right of first refusal is used as a tool to encourage the continuance in use and offers some comfort to many purchasers in retirement communities. Of the nine focus groups I've attended in three different municipalities, the first question asked by prospective purchasers is: "How can we be assured that this will remain a retirement community? We have a big investment." Those are the purchasers.

It's recommended that right of first refusal be continued for the reasons noted above. Other factors that should be considered if the community changes from a retirement community are:

—The impact on sewer and water systems because of capacity. That's not only a private water and sewage system; that has an effect on municipal systems. In the case of the city of Guelph, it has been assumed, based on an existing study of other retirement communities, 1.8 persons per household. On a 1,000-unit development, I assure you that can have an impact if the persons per household changed to, say, three or four.

—The need for schools if it's not maintained as a retirement community.

—Other neighbourhood recreational facilities that are usually provided within the community of course would have an impact on municipal planning.

The other issue that's been brought up is signage. To respect a person's ability to sell their home and obtain the best price possible, it is recommended that some control of signage be permitted. For example, many condominium corporations do not permit any for-sale signs on the lawns, be they townhouses, but rather a central registry has been given as an example by others today in a common recreation centre. Also, owners can place signs in the window of their homes.

That's the formal presentation. I'd like to add a couple of comments that have come about with respect to others, so I don't repeat too much.

Just so you're aware of my own history, I work for a Metro housing company developing seniors' housing. From 1977 to 1984, I was a member of the technical advisory committee through the Ministry of Municipal Affairs on retirement housing dealing with this issue, a report that again didn't become public. The advisory committee to CMHC Ontario for seniors housing is a committee I sit on now.

The other thing I've done within my presentation is address the bill as if not amended, because at this point, while there is good intention, I suggest that the bill is not amended, and I can't deal with that.

Studies taken to date: the Ministry of Municipal Affairs I referred to, the interministerial study; CMHC did a study by Barry Lyon Consultants looking at satisfaction, and land-lease communities were perceived as the same as condominiums for acceptance.

I've mentioned right of first refusal. Remember that long-term investment—this is not the kind of business that a lot of conventional developers get into. It's a lot of family businesses and institutions such as the university, which is being looked upon by other institutions across the country. The Roman Catholic church is looking at this; it is also a possibility even for governments to look at surplus lands and the ability to provide affordable housing.

Lifestyle, it's been brought up, is very similar to a condominium, but remember that when the Rice communities first started, there was no Condominium Act. This was a vehicle by which a lifestyle community sharing common facilities was possible, so it's understandable that it evolved as a hybrid. That term has been used before. Where else, under landlord and tenant, does the tenant have perhaps as much equity in the project as the true landlord? So there are differences.

There are concerns of the landlord and the community at large. Again I refer to the University of Guelph. The land-lease community is sitting right across the street from the university, and without a right of first refusal as a tool, that's a tremendous location for student housing. If you were a purchaser of a retirement home, you might very well not want student housing next door to you. So it's an attempt to look at the investment rights of the individual.

I'd like to conclude with those brief comments, and thank you again for this opportunity.

**Mr Conway:** Thank you, Mr Eades. I'm fascinated by the involvement of the University of Guelph, and I want to pick up on the last point you made. You made quite a cogent presentation here, both of you, and I find it quite persuasive. Does the University of Guelph now find itself involved in any of these land-lease communities, or is it a matter of possibility?

**Mr Eades:** Oh no, it's real. There are 32 conditional sales, and as of this week a request to proceed is going ahead. Reid's Heritage Homes is awaiting approval from the bank for funding.

**Mr Conway:** So this is a private development that is being organized on endowed lands belonging to the University of Guelph.

**Mr Eades:** As a fund-raising for the heritage trust, which is an endowment fund at the University of Guelph.

1500

**Mrs Marland:** Obviously, this debate is a debate between the rights of land owners and home owners, the people who own the buildings. Your proposal for a new act for land-lease communities definitely is the solution, identifying that it is purely a hybrid.

One thing that was pointed out to me this morning informally and wasn't brought to the committee which I want to ask you about, because I hadn't heard about it before, is, as an example, that the land owner, after the home owner moves out, can be stuck with the hydro bill, and sometimes it can be hundreds of dollars, into thousands. Is that something your group has discussed at all? Is that so, that if the hydro bill isn't paid, some municipalities put it on to the property and therefore it's your responsibility?

**Mr Eades:** I think that's more appropriately answered by Mr Gillard, simply because the University of Guelph project is in paper.

**Mr Gillard:** In practice, I can't assume it will become that big a problem in our community. We pay for the common-area hydro, all the street lights and all the hydro to run the facilities in the community, but each individual home is individually metered and their contract is directly with the hydro.

If they move out and abscond or are gone, they would certainly come after the landlord for that money, but we've haven't had that problem in operations of the park. Hydro does not let bills get to that state, in our estimation, at any time. It hasn't been a problem for us to contend with.

**Mr Fletcher:** I know you haven't had a lot of time to go over the amendments that you've only just received. Do some of these amendments address your concerns, from what you've seen?

**Mr Eades:** From what I've seen, it would appear so. I know that's a middle-of-the-road answer—

**Mr Fletcher:** No, I couldn't ask for a better answer.

**Mr Eades:** I'm going to review those tonight. Given other commitments, I could not get through them all.

**Mr Fletcher:** You'll give me a call and let me know how you feel.

**Mr Eades:** Yes, I will, but the 72 hours seems reasonable.

**The Chair:** Thank you, gentlemen, for appearing.

#### CANADIAN MANUFACTURED HOUSING INSTITUTE

**Mr Douglas Barker:** Good afternoon. My name is Douglas Barker. I'm the vice-president of the Canadian Manufactured Housing Institute. Our institute represents the manufacturers of mobile and modular homes, together with the suppliers of goods and services to the industry. That includes representation of park owners and operators, dealers, consultants, that sort of thing.

Of our approximately 19 manufacturer members across Canada, five of these are located in Ontario. They include Royal Homes in Wingham and Peterborough—they have two factories; Guildcrest Building Corp in Morewood, which is just outside Ottawa; Northlander Industries in Exeter; Quality Manufactured Homes in Kenilworth, Ontario; and Viceroy Homes in Port Hope.

The position I hold with CMHI is a voluntary position. When I'm not wearing that hat, I function as a consulting engineer, providing land use planning services, municipal engineering and project management services. An area of our specialty is land-lease retirement communities.

In preparing this submission, we have consulted with Mr Wessinger, also with some staff of the Ministry of Housing, and with representatives and their staff of various members on this committee. We wish to thank them for their assistance.

First and foremost, let me be very clear in saying that CMHI fully supports a land-lease communities bill, but it is essential that that bill equally protect both the tenants and the landlords.

Our general comments on the proposed Bill 21 may be outlined as follows:

It is our feeling that Bill 21 as now drafted provides tenant protection only. In a land-lease community, it must be recognized that unlike a conventional subdivision, in which the residential units, together with their lots, are sold, generally within a few months of servicing, the landlord in the land-lease community is involved with and committed to the project in perpetuity.

There is a continuing tenant-landlord relationship, and the landlord must be provided with equal protection to the tenant. If Bill 21 does not provide this protection, the opportunities for future land-lease communities will cease, existing communities will deteriorate, and those tenants who presently have equity in units will see that deteriorate.

Bill 21, by piggybacking on to existing legislation, ie the Landlord and Tenant Act, Planning Act and the Rental Housing Protection Act, creates a labyrinth of cross-references, which Mr Eades referred to previously, and this is virtually impossible to follow. A land-lease community is a hybrid that establishes a private residential unit on leased land. As far as we know, there is no existing legislation that addresses that scenario.

Although we support the initiative in bringing forth this draft legislation, the private member's bill procedures do not seem to allow appropriate legislative, staff and public review. We received yesterday, at noon, notification of the 28 amendments proposed for this bill. We understand that more are coming.

As well as making substantial changes to the clauses applicable to the Landlord and Tenant Act, if we have read the amendments correctly—and I emphasize the time has been short—the amendments proposed change every clause in the bill pertaining to the Rental Housing Protection Act. Every clause is subject to change.

In my position as a member of the association, I have had no opportunity to review any of the proposed amendments in relation to our concerns with the legislation, or discuss the implementation of any of the proposed amendments, either favourable or disfavoured, with the membership of CMHI.

I would also point out to the committee that we have sister provincial associations, and I have asked for input from the Alberta association, the British Columbia association, the Nova Scotia association and the New Brunswick association. They have extensive mobile home parks in their areas. I've asked for their input, and I think this committee would like to build on that experience. We don't have to reinvent the wheel. We have our next meeting of the association on March 4 and I will be



reporting to our members. Effective today, I've got to say: "Thank you very much for your input. We've been looking at the wrong legislation." It seems that all of the presenters here today are in exactly the same position.

Surely this is sufficient grounds alone to defer further discussion of this matter, because obviously, whatever bill may come forth will be substantially different from what you see before you today. I was very disappointed this morning when the matter wasn't adjourned, so I'll proceed with the rest of my presentation which addresses the specifics of the bill.

Section 79, definitions: We support the definitions for "land-lease community" and "land-lease community home." These definitions recognize land-lease developments as an established and acceptable form of residential development for the citizens of Ontario.

Section 80 on the retroactive legislation: As previously noted, this creates quite a labyrinth of cross-references to existing legislation, and we simply recommend that that all be dropped. References may have been made to that in the amendments. In my brief reading of the amendments, it appears that some of the aspects of retroactivity have been retained with the reference to "leases presently in force."

Section 84 speaks to the subject of distraint, the landlord enforcing the rights of distraint and so on, to protect his investment; if there is a bad apple living in the community, something like that. This should not be looked upon as something simply for the landlord. This ability has to be looked at as protecting the majority of the tenants within the land-lease community. It is in the landlord's interest, certainly, but it's more so in the interests of the majority of the residents.

Section 89 speaks to the right to assign or sublet. This is a section of the Landlord and Tenant Act that was not suggested for modification, but we think it should be strengthened to protect the rights of the majority of the citizens living in an existing land-lease community. The legislation must clearly outline that any subleasing of a unit must make the sublease automatically subject to the obligations of the original lease. It is only in this manner that the lifestyle of the community can be maintained and the interests of the majority of the residents protected.

**1510**

Section 125 speaks to the tenant's right to sell and the landlord's right of first refusal. Certainly the owner of a unit must have the right to sell the unit, and we recognize that apparently this right has been abused by some landlords. CMHI supports revised legislation that will allow the tenant to sell their unit without the compulsory requirement for the landlord to be agent for the sale and that the tenant must receive full market value for the unit, as outlined in a bona fide offer, and the real estate agent must receive their appropriate commission.

We must emphasize, though, that a bona fide offer must be on the basis of a continuation of the existing community lifestyle. If it's a retirement community, the unit must be sold to a retired person. There's a very definite responsibility here on the real estate agent to understand and implement that, and I don't see any

reference to that in the legislation. We recommend that the landlord retain the right of first refusal on the unit, but the unit must be purchased at full market value and without delay.

For-sale signs have been discussed. I think it's sufficient to say that we support the position of a for-sale sign in the window of the unit or in the community centre on a display board, something in that manner.

The reserve funds: The intent of the section on the reserve funds is very confusing and intermingles the day-to-day cost of operations with the requirements for long-term maintenance and upgrade. We recommend it is out, and we understand that is receiving serious consideration.

In regard to the Planning Act, we have no objections to the inclusion of land-lease community homes under section 46 of the Planning Act. The opportunity does exist to expand section 46 to further confirm land-lease communities as a recognized use developed under site plan control regulations. This would serve to protect the investment and lifestyle of those, in particular seniors, who choose this type of accommodation. We would love to see specific zoning that would allow us to zone for retirement community.

The Rental Housing Protection Act: As previously noted, in our opinion the proposed amendments to Bill 21 appear to delete all the previous points and introduce all-new subject matter. Many of these points are quite complex and involve interaction, it would appear, with other jurisdictions such as the Ontario Ministry of Environment and Energy. We have not had time to review those points and at this time can only speak to two principles of the legislation in respect to the Rental Housing Protection Act.

It is understood the intent of the revisions to the Rental Housing Protection Act will allow the conversion of land-lease communities to condominium or co-op tenure. We support that position.

The second part of this legislation will prevent the demolishing, ie the shutting down, of existing parks. Certainly the rights of tenants living in the existing parks must be recognized and appropriately addressed. Also, the rights of the landlord must be addressed and upheld. There's got to be more work done on that aspect to protect both the tenant's and the landlord's property rights.

In conclusion, the Canadian Manufactured Housing Institute fully supports the implementation of legislation that identifies mobile home parks and land-lease communities as a legitimate part of the housing stock of Ontario.

The legislation to be implemented must recognize and protect the rights of both the individual tenant and the landlord. This dual responsibility is essential to protect the interests of the majority of the tenants living in a community.

Bill 21 initiates the discussion in this regard, and we support Mr Wessinger for bringing this matter forward. However, we are concerned that the legislation to date has been prepared essentially without input from tenants. An appropriate detailed review and input is still necessary

from park owner-operators, municipal officials and members of the industry, especially in view of the substantial amendments that appear to be coming.

The needs of tenants in mobile home parks and land-lease communities could best be served by separate and distinct legislation, ie, a land-lease communities bill. We urge the committee to give this aspect serious consideration. However, if that option is not feasible, the minimum required is sufficient time for full tenant, landlord, municipal and industry review and comment on the proposed legislation, recognizing again the numerous amendments that have been proposed. Thank you very much.

**Mrs Marland:** This is a valuable brief you've presented to the committee, Mr Barker. What is interesting is that it points out again to the committee the issue of the two sides to this issue and the frustration of trying to address both sides. The irony is that the very important part you address on page 4 in section 5 is protecting the rights of the majority of the citizens who live there.

I don't think "landlord" is the appropriate term, anyway, in this bill; I think we should be talking about "property owner." The majority of the citizens who chose to live especially in the retirement communities, who made that choice because they no longer wanted to be with young children other than maybe the visits of their grandchildren—an adult-only environment has to be a choice of housing in this province.

Unfortunately, the NDP government is opposed to adult-only environments. They've proven that by their comments on adult-only apartment buildings. They no longer support adult-only apartment buildings even as part of the non-profit housing program, so we're immediately at odds in an ideological battle with the current government on this issue of adult communities. But the majority of people in this province feel they should have a choice of where they live and the environment in which they live. When it comes to these existing developments where people have made that choice based on what it was that appealed to them about an adult-only lifestyle, when you talk about the majority of those citizens—

**Mr Mammoliti:** Is there a question in this?

**Mrs Marland:** You know, you are so rude, Mr Mammoliti.

**Mr Mammoliti:** Well, is this statement time or is it question period?

**Mrs Marland:** When we're looking at the choices that have already been made and the majority of those citizens who buy into these communities because those are their choices, it's very difficult to deal with a bill that comes along and doesn't continue to guarantee the investment they've made knowing it was in that kind of environment. That part, along with your other concerns, speaks to both the people who own the buildings and the people who own the property. Thank you for bringing that to us.

1520

**Mr Mills:** Thank you for coming this afternoon. I can see that, by all intents, you represent or are representative of a very large interested party in this bill, the Canadian

Manufactured Housing Institute. I happen to know and have visited the place up in Peterborough, so I know it's a big industry.

Are you suggesting you've only just heard about this? This came up with the other government, and I just wanted to know whether, when it came up with the Liberal government as a problem, you were apprised of this. You say now that you feel you haven't been asked enough. Were you asked by those folks about it?

**Mr Barker:** No.

**Mr Mills:** Nothing. So they didn't communicate with you anything about their interest or concerns with this legislation.

**Mr Conway:** No wonder the rascals were thrown out.

**Mr Mills:** In fact, they were the mothers of it, if we go back to 1989.

**Mrs Fawcett:** Or the fathers.

**Mr Mills:** Another thing I want to tell you, and you'll appreciate this, is that here we have the Provincial Council of the Women of Ontario. This group of women was founded in 1923 and they're a powerful group. This has been on their agenda since 1989. They've been pushing for something to be done about this. Did you not hear about that?

**Mr Barker:** No.

**Mrs Marland:** If you don't have a question, you'll upset Mr Mammoliti.

**Mr Mammoliti:** You interrupted him. That's pretty rude.

**Mr Daigeler:** The most important point you made, in my opinion, was that this matter is of such great importance and also so difficult that it really is impossible to be handled through a private member's bill and it should be properly brought forward by the government with the proper studies, the proper public consultation. You're quite correct, and the longer the hearings go on, the more clearly this is coming forward. But I nevertheless feel that the hearing process will help the government in whatever it is going to bring forward ultimately, and hopefully shorten the process a little.

As you have a sort of national background, what's happening in the other provinces on this? Have they done something like Bill 21? To your knowledge, what's the situation in the other provinces?

**Mr Barker:** As I mentioned to you, I'm trying to find out, specifically in relation to what has been presented in this bill, and I have not got much information back yet. I just received some information from Alberta. Alberta has a Mobile Home Sites Tenancies Amendment Act, 1992, which I received yesterday. I haven't had time to look at it yet, but I'd certainly like to have the time to review that and share that with the committee, hopefully, and build on that. There are more mobile home parks and that type of thing, I would suggest, in the western provinces, particularly Alberta and BC, and they're accepted more favourably than here. I'd love to be able to stand in front of a municipal council here and say, "I want to develop a land-lease community in your area, and here's the land-lease communities bill and this is how



we're going to go about it, and this is how it will operate." That would be great, but it's got to be the proper bill, and I don't see that the bill we have now is the proper bill.

**The Chair:** Thank you for appearing. We appreciated the information.

#### FRINGEWOOD NORTH

**Mr Phil Sweetnam:** My name is Phil Sweetnam. I'm from Stittsville, which is near Ottawa. On my left is the intuitive and bright part of the Sweetnam family, my wife, Beth. Joe May is a fellow member of our board of directors.

I want to speak to you for a few moments today about the development of land-lease communities in the Ottawa area. I thought it was important, especially in view of the comments I've heard from my left side that perhaps many people feel that all landlords do is exploit the community. Anyway, I want to give you this brief history. In our area, we've developed some 250 homes where we used the manufactured housing sector to build homes and eventually put them on a traditional subdivision basis and in that way market them to the community. That's probably been the most successful part of our operation.

One of the ongoing problems is with the traditional part of our community; that is, we operate a 64-unit mobile home development we purchased in 1969. If you have our little map here, Kanata is up at the top. Kanata's an Ottawa suburb. Stittsville is maybe four kilometres from Kanata going to the west. Our mobile home development, as you will see, is on the edge of Stittsville going towards Kanata. Things are processing and developing in the area.

As part of the subdivision agreement I have, we have the 64-unit mobile home community in Fringewood North and then I have a 10-unit development that still contains mobile homes in the Fringewood South area. The real problem we have is that the 10 units that are in the highway commercial area—that's been zoned highway commercial since 1977 and I have an agreement with the municipality that I will remove those homes. Every tenant who has changed homes since 1977 has been informed that that's the zoning and that's the municipality's eventual use for the land and what I plan to eventually do.

I've tried to be upfront with my tenants and say, "Here's the direction we're going." There tends to be a little discrepancy in price between the ones in the south and the north developments. I think the market is gradually taking some recognition of that fact. I would put to you that we have a problem in terms of trying to recognize the eventual uses that Goulbourn township requires of us and Bill 21's requirement that it always remain as a mobile home community.

As far as I'm aware, there are other developments in an area like Nepean where they have the same kind of thing. There's an industrial zone in place. Eventually, the municipality's zoning is one that I think will come into play. The community ought to recognize that the development of communities is a growing and ongoing thing and does have to change as time goes on.

*Interjection.*

**Mr Sweetnam:** Was it an important point?

**Mr Mills:** Your member's shown up, I said. I think it's very nice.

**Mr Sweetnam:** that's an important point, I guess.

**Mr Conway:** He should be treated very carefully because he can be ornery.

**Mr Sweetnam:** I hear your advice, Mr Conway.

**Mr Conway:** I'm only kidding.

**Mr Sweetnam:** My original presentation was very structured. If I make a bad joke or something like that, I'm going to blame Mr Wessinger, because I understand there's a possibility that we'll withdraw the reserve clause. That was the one we were most concerned about and what I had directed most of my presentation towards.

I thought I might take a few minutes of the time to say to you that I still hear some people say, "The solution to the problem is get those reserve funds in there and that will do the job for us." I would like to express to all of you that the real concern I have is that it's a financial problem.

1530

In my community, going back to 1977, when we tried to introduce sewer services to Fringewood, and we put water in the community at that time, we were not able to get the consent of the Ministry of the Environment of the day to service the people who lived in mobile homes. They somehow thought they were a different breed of cat because they were owned by a private individual. People in my community, Stittsville, received a good subsidy to help put services in the rest of the community. Fringewood was the only exception. We're here today trying to pick up the pieces.

Mr White had indicated there are often difficulties. The problem is a financial problem: How do I come up with the \$7,000 per lot it takes to upgrade sewers? It's not that I haven't tried. It would take three years of revenue to solve the one problem, the sewer problem. If I go into the streets to put sewers in there, I'm not going to just do sewers. I should be doing gas mains, I should be upgrading watermains. This is even though I presently have water in the community. Part of the process of servicing an underdeveloped community that was built with the travel-trailer industry in mind is that you're continually upgrading water lines to get good pressure. We now have an eight-inch watermain and fire hydrants and stuff and a few of the old lines tied into that. That's how we've got water, but I haven't been able to make that same solution for the sewer problem that exists. I think the reserve clause especially of Bill 21 will exacerbate the problem.

There seems to be a particularly abhorrent example of a badly run development, and Joan Fawcett has asked and Mr Mills has asked. Could I suggest to members that if there's an outstanding work order, it can be registered against the development and that person can get no increases in rent. You've got a tremendous lever to get an irresponsible landlord to the table and say, "Get up here and fulfil your responsibilities as a landlord." But as governments, there is a responsibility to see that the financing portion of it is in place, and I don't see your reserve fund as meeting those responsibilities.

I also sensed in reading the Hansard that life is always strife between the landlords and the tenants. I submit with my presentation a letter from the tenant association president indicating that the real problem in dealing with the servicing crisis in Fringewood is a financial one. The current legislation only allows about a 3% increase to deal with a really substantial increase in servicing costs.

One of the efforts we have tried is to go the route of the condominium approach. Apparently the current legislation in our area, as it's enforced by the local registry office, doesn't allow us to go the condominium route. The government had a condominium bill which allowed land-lease communities to go ahead. That was withdrawn from the order paper, and I don't know where that stands at the moment. That would probably be a reasonable solution for how to pay the costs of servicing.

I would also comment, as the previous speaker did, that if we consider the profound effects of Bill 21 on mobile home owners and park owners, I respectfully request that I and the other interested parties be given the opportunity to address the committee when the amendments are available to all of us. I have not seen whatever the amendments are as tabled, because I understand they will have a substantial effect on this bill.

**Mr Wessenger:** First of all, I'd like to make a preliminary comment, because I think a lot of misunderstanding is being put forward here. The primary purpose of my bill is basically to deal with two problems relating to mobile home parks and land-lease communities: one is the marketability problem which has arisen in many cases, with tenants having difficulty in marketing their homes, and secondly, the whole problem of security of tenure.

With respect to the whole question of security of tenure, I think there is perhaps in your presentation somewhat of a misunderstanding with respect to what the Rental Housing Protection Act will do. The Rental Housing Protection Act will not prohibit a conversion of those 10 lots, sites. What it will do is set out a procedure which you have to go through to achieve that conversion. The housing protection act makes an application to a municipality, and the municipality's decision is basically based on whether alternative housing is available. I might suggest to you that if you had other sites to move those mobile homes to, that would solve your problem with respect to an application to the municipality. As the municipality wants you to do it, I'm just suggesting that it's not the major problem you think it might be.

**Mr Sweetnam:** The major problem is affordability. In other words, to reconstruct today, I would not put in a site that had two-inch watermain and 100-amp electrical services and no fire hydrants. Today they would have eight-inch watermain connected to a municipal water line. At the new standard, I understand one of the requirements is that the new rental structure has to be the same as the old one. Therein lies the difficulty, trying to bring 1990s standards providing services at 1975 prices or 1970 prices. That's the practical difficulty I encounter.

**Mr Wessenger:** I understand. Your issue is really the whole question of finances, to rent review aspects rather than my bill.

**Mr Conway:** Could I carry this just a step further? This discussion is really interesting. What I think I hear the proponent of the bill saying, and I hear you responding, is that while you both see a problem, you're saying that from the point of view of your experience, this bill is not the solution to the problem you both see.

**Mr Sweetnam:** That is my experience and what the tenants' association is suggesting. I must say, while I'm not going to ever claim that there's never conflict or differences of opinion, generally my tenants' association and I work well together, and things they feel strongly about, I'm able to—that's part of the presentation, the letter of support saying the reserve funds of Bill 21 are not the way to go to solve this problem.

**Mr Conway:** When I look at your map, I'm quite intrigued by the 10-unit development. Over the course of time, there's no doubt that is going to be overtaken in terms of a traditional use; that is, this kind of land-lease or mobile home park is going to give way to a different kind of usage.

**Mr Sweetnam:** That's certainly what I have expressed to each tenant who has purchased in the past since 1977.

**Mr Conway:** It's your concern, then, that legislation like the bill before us currently is really standing in the face of the—

**Mr Sweetnam:** It would make it financially difficult to implement the decision the municipality went for, which was to look at that as highway-commercial use as the major arterial between Kanata and Stittsville developments.

**Mr Conway:** Is it the view of most of the residents in that 10-unit park now that they can see what's coming, that the day is fast approaching when a mobile home park is probably not going to be a good use of space or a place they might want to be?

**Mr Sweetnam:** As long as that economical housing is available, I'm sure they appreciate that and I'm sure they'd all probably make a donation to Mr Wessenger's campaign if he were to put through the legislation. I'm just saying it's not going to—

**Mr Conway:** But would they not agree that if the neighbourhood changes, if everything around them becomes not what it is now but highway-commercial, surely the area will become a lot less attractive for that particular land use?

**Mr Sweetnam:** We're seeing that starting to happen now, yes.

1540

**Mr Norman W. Sterling (Carleton):** The development you have there, which of course I'm familiar with, recognizes the two levels in which mobile home parks have been created. Fringewood North, where the 64 units are and which is the subject matter of your presentation, is the 1950s style of development of these things, when municipalities—the township of Goulbourn was pretty young at that stage of the game, and very rural. Municipalities didn't demand much of the developer. Then there's Fringewood South, properly developed, services put in at the time, acquired by the township, and therefore there are no problems with Fringewood South,



basically. The thrust of your submission is that because there isn't any government reaction to dealing with the 1950 problems, which could exist—I know they exist in two other mobile home parks in my area—these places are going to have to close down. It's going to be very difficult to continue, to meet the MOE requirements. The message is that we've got to find another solution. It's the financing solution which is the problem. How do we get the services in Fringewood North to make it look like Fringewood South? There isn't any solution at this time.

The only thing I take from this, Mr Wessenger, is that you may be exacerbating the problem in Fringewood North. By restricting the financial alternatives of Mr Sweetnam, how are you going to make it easier for him to put those services in? How is he going to put those services in?

**Mr Wessenger:** One of the concepts in the bill is to encourage the conversion either to condominium-type ownership or to what is called a tenant-owned cooperative. Both of those are envisaged as being something I want to see. The intention is to be exempt from the housing protection act with respect to such conversions.

**Mr Sweetnam:** Long before I heard the wisdom of this bill—and I think there is some wisdom in the bill; I see some good approaches in the bill—I was going down the conversion-to-condominium route. One of the first requirements, as Mr Wessenger will know, is that you get the land in the land titles office. I'm that far. The land titles people, who are maybe surveyors and not lawyers, don't accept the advice of my lawyer, who says, "Yes, you can put a condominium in there." We need condominium legislation that says very specifically, "Land-lease communities are okay to—" Gentlemen all, ladies, please push that forward. I know you've got a tough time allocating House time, but that's one possible solution to the problem.

**Mr Sterling:** I understand there are 27 or 28 amendments to the bill, which members have received. Are deputants going to be given the opportunity to come back to the committee after they have been put on the floor? Are they publicized?

**The Chair:** I can answer just from the straight process perspective. Tomorrow afternoon at 3 o'clock the committee is scheduled to begin the clause-by-clause examination of this bill.

**Mr Wessenger:** Perhaps I could add some explanation about the amendments. Most of the amendments are of a technical nature. There are probably only about five or six of a substantial nature. The rest of them are basically language changes. What I hope to do at the beginning of clause-by-clause is to make a statement dealing with those amendments I propose to make which are of a substantial nature. The majority of those amendments, though, are technical and not substantive.

**Mr Sterling:** The bill only has 27 sections.

**Mr Conway:** And Mr Sterling is a lawyer. Normie, have you got some extra time?

**Mr Sweetnam:** Through my school career as an engineer, I was always being accused of being culturally challenged. After reading this legislation, I feel a little

legally challenged and overwhelmed.

**Mr Wessenger:** I would agree with this whole area.

**The Chair:** Thank you very much for appearing.

**Mrs Marland:** Mr Chairman, can I ask Mr Wessenger to identify the substantive amendments? I don't have a lot of time tonight to read through all the amendments and match them with all the sections of the bill because of a speaking commitment I have. If we're going to start it tomorrow at 3, he could tell me which sections are substantive and I will focus on those at midnight tonight when I get home.

**Mr Mammoliti:** Why don't you fix her a cup of tea or a cup of coffee? You may as well fix her a sandwich with a pickle at the same time.

**Mr Wessenger:** Why don't we do that after we've completed all the hearings?

**The Chair:** This afternoon?

**Mr Wessenger:** Yes, this afternoon.

**Mrs Marland:** I won't be here.

**Mr Wessenger:** You could probably speak to my staff and they might be able to indicate to you which—

**The Chair:** We seem to be into the midafternoon, forget-about-decorum mode. Let's get back to regular parliamentary order.

#### STRATHMORE COMMUNITIES CORP

**Mr Clayton Hudson:** My name is Clay Hudson and I'm president of Strathmore Communities Corp. Strathmore was established early in 1993 by a group of experienced real estate professionals to develop affordable, adult lifestyle communities in south-central Ontario. Our research into the empty-nester market for the 1990s and beyond led us to the following conclusions:

(1) In Canada generally, but in Ontario in particular, the number of healthy and active people over 55 will increase dramatically over the next decade. As a result, the demand for residential accommodation to satisfy the needs of this group will also increase.

(2) Although not universal, there is generally a desire among many retired or about-to-be-retired people to move from builtup areas to small-town or even rural settings.

(3) The satisfaction level of those living in rural or small-town retirement communities is extremely high. Generally, the residential dimensions relating to this satisfaction ordered out as follows: dwelling considerations, lifestyle considerations, location considerations, and tenure considerations. In these communities, by far the most common form of tenure is land-lease.

(4) By providing a destination for empty nesters, existing housing stock in urban areas will be recycled to younger families with children who will make use of existing infrastructure such as schools.

(5) By creating communities in clusters in existing settlement areas, on communal sewage and water systems where services are not available, the environmental and planning objectives contemplated by the Commission on Planning and Development Reform in Ontario are met.

Encouraged by the demographics of the market and comforted by our research, Strathmore has enthusiastically

cally sought out sites in south-central Ontario to locate one or more adult lifestyle communities which will provide high-quality, affordable living accommodation in a congenial community atmosphere to today's and tomorrow's seniors. It would appear, however, that the Ontario government is not supportive of this form of housing.

In its draft of Planning Guidelines for Retirement Communities in February 1992, the Ministry of Municipal Affairs indicated that it is not enthusiastic about the creation of retirement communities, especially those on land leases. These guidelines, although not providing any backup data, offer a very negative view of the impact of an adult lifestyle community on a local community or economy. Furthermore, while our research indicated that adult lifestyle communities not only provided low-cost quality living for seniors but also were low impact on the area in which they were located, and in addition, that the local area experienced increased consumer demand, not to mention increased tax revenue, none of this appears to have been recognized by the ministry.

Concurrent with or shortly after the publication of these guidelines, land-lease communities were brought under the Rent Control Act. No attempt appears to have been made to differentiate between the rent paid for a dwelling unit, for example an apartment, and rent paid for a lot in a land-lease community, which is in essence a fee for services such as sewer and water. The question therefore arises, is it appropriate to regulate the fee for the provision of services under legislation designed to deal with the regulation of rent for dwelling units?

In 1993, the final assault was made on affordable, adult lifestyle communities in the land-lease format. A private member's bill was introduced into the Legislature, Bill 21, the net effect of which would be to bring all land-lease and mobile home communities under the Rent Control Act, the Landlord and Tenant Act, the Rental Housing Protection Act and the subdivision control provisions of the Planning Act.

The consequences of Bill 21 becoming law, apart from the impact on existing land-lease communities, will likely be either the elimination of new communities altogether or increase in both time and cost to bring a new community on stream, with the resultant increase in price to the consumer.

1550

Instead of proceeding with the legislation proposed, which has the potential of eliminating an affordable housing alternative for seniors, would it not be more prudent to establish a committee to look into the whole universe of land-lease communities and mobile home parks? Such a committee could then report back to the Legislature with its recommendations, which might include a bill specifically governing housing on leased land, much like the Condominium Act governs condominiums. Surely this would be a preferred approach to Bill 21, which in itself is a patchwork of existing pieces of legislation never intended to be applied to the circumstances at hand.

I wasn't here this morning, but it seems there was a bit of a consensus that perhaps the approach should be a

land-lease community bill or statute, and that I concur with.

But I'm very concerned about the consultation process. I happened to be meeting with a planner and a town clerk in a township just east of Toronto and I mentioned the impact Bill 21 might have on their community. They had never been circulated the bill, had never been advised that the bill even existed, had not been contacted by Municipal Affairs. My understanding is that the policy in this province is that where there is a statute proposed by the province which will directly impact on a municipality, that that be circulated into all of the municipalities for comment. This has not been done, to my knowledge, with this bill. That concludes my comments.

**Mrs Marland:** I think it's my turn to ask questions.

**The Chair:** No, it's Mr Conway's turn.

**Mr Conway:** It being Margaret's birthday, I want to defer to her. Margaret, go for it.

**Mrs Marland:** Thank you, Mr Conway. This consultation process, or absolute dearth of it, is a tremendous concern. I would like to ask Mr Wessinger whether he personally, as it was a private member's bill, circulated it even to AMO, the Association of Municipalities of Ontario.

**Mr Fletcher:** They agreed with it.

**Mrs Marland:** That wasn't the question. The question was, was it circulated to them?

**Mr Wessinger:** Did I circulate it to AMO? No, I did not circulate it.

**Mrs Marland:** The problem is that it's almost like it's a deliberate move to deal with one side of one subject, which is not constructive in the least. My office is getting more and more calls now from people who suddenly realize this is here, in fact from people who don't live in my riding, because I don't have this kind of development in my riding. But they're saying, "Why didn't you let us know?" I say to them, "Unfortunately, it's the responsibility of government, or, if it's a private member's bill, for that individual member to circulate it to the parties that are affected." This is what we've been hearing all day, that people happen to have heard from somebody else. That part is very disappointing.

Mr Hudson, I want to thank you for the information you're bringing to us, especially the Ministry of Municipal Affairs report in February of two years ago, 1992, the draft of the planning guidelines for retirement villages. I didn't know of that. It's very interesting when these guidelines end up, as you say, presenting a very negative view of the impact of an adult lifestyle community on a local community or economy. I can see so many of these communities being adjacent to more rural communities, where they would be glad that people are buying carpet and furniture and groceries and milk and everything else because that community has evolved.

I don't have questions for you, but for Mr Wessinger. Mr Wessinger, did you consider this draft that was available in February 1992? I'd like to ask that we all receive a copy of this through the clerk or maybe through Mr Richmond, the researcher, because I think we need this information. Did you refer to this draft?



**Mr Wessenger:** Obviously, my bill is not directed to the whole question of development within the province; mine is designed to protect the rights of tenants who live in mobile home parks and those who live in land-lease communities—

**Mrs Marland:** Are they not retirement villages?

**Mr Wessenger:** —and to ensure that we have marketable units, which is in the interests of both owners and tenants, and that we have security of tenure, which is of utmost importance to tenants. That's the limited purpose of this bill. This bill is not designed to do a complete revision of the law with respect to land-lease communities or designed to do a complete revision with respect to the Landlord and Tenant Act.

**Mrs Marland:** I don't think you heard my question. My question was about retirement villages. You just didn't want to answer it, I guess.

**The Chair:** Thank you, Mrs Marland.

**Mr Wessenger:** Mr Hudson, I was curious about your comments with respect to the amendments to the Planning Act. I've had discussions with several people from land-lease communities. As you know, my bill merely requires that they develop either under subdivision control or under site plan development, and in my discussions with most of the people developing these types of projects, they're doing them under site plan. It seemed to me as a former municipal councillor, as a lawyer dealing with a lot of real estate development in my experience, it was an unfortunate gap in the past that you could have many of these mobile home parks grow up without any planning, without any services. By having a requirement of site plan approval, you're going to ensure that you get the planning control for the development of these. I have some difficulty in understanding why you would object to an almost minimalistic approach with respect to the development, particularly in view, as I said, of the comments I've had with developers who are quite sophisticated in this area.

**Mr Hudson:** I don't think anybody in the business of creating new communities has any problem with the site plan control process. From my point of view, I'm one of the very fortunate individuals. I didn't buy land in 1988 to try to develop it in 1993. But in some of these smaller municipalities where these are located, to insist on the process of a registered plan of subdivision for a plan like this adds a tremendous amount of time and expense to the process, as you are aware, and really, that's the end of the comment.

I don't think anybody's got a problem with the site plan, because inevitably, the way development is going as a result of the Sewell commission, you can't develop in a field. You have to be in a settlement area and there has to be official plan status to your property before you're permitted to develop it. That obviates the necessity of doing a site plan.

**Mr Wessenger:** But the legislation is worded in such a way that subdivision is an alternative to a site plan. It's not that you have to have a site plan on subdivision; it's an alternative.

**Mr Hudson:** I apologize, Mr Wessenger. I am a

lawyer, and I had a lot of problems with Bill 21.

**Mr Wessenger:** That's the way the instructions went for the drafting and the way I read it. I'm sorry if you came to the conclusion you had to do both. I'm sorry you misread it that way, because it's certainly not the intention that you had to have a subdivision for every—

**Mrs Marland:** Is it a choice?

**Mr Wessenger:** It's a choice, yes.

**Mrs Marland:** So some municipalities might enforce it?

**The Chair:** No, Mrs Marland. Mr Conway.

1600

**Mr Conway:** Well, I am not a lawyer, so I am loath to travel into this crossfire, but I want to say that I think your presentation is a good one. I'm particularly struck by the observation you have made that there has been, over the last number of years, a sense given by virtue of government policies that retirement communities as such are not really desirable. It has been noted sotto voce by I think the member for Guelph that the courts have taken that out of our hands. I think he's right to some extent. Again, I'm not a lawyer, but it does seem to—

**Mr Hudson:** You can't legislate age or sex.

**Mr Conway:** That's correct, but I think your brief makes plain that there is a very real market pressure out there, that all of us sense, that the over-55 crowd, not an inconsequential part of the polity these days, prefer it.

Margaret, I didn't say anything. We'll get around to that perhaps later.

Your sense is that Bill 21, if implemented, even with the amendments, would really put a cold shower on any prospective developments in places like Tillsonburg or wherever.

**Ms Hudson:** I can't answer that question because I don't know what Bill 21 now says. Apparently, there was a whole bunch of new amendments brought down. My biggest problem, and this is as a lawyer, is that you take a bunch of legislation that was drafted to solve a problem over here and then you try to bring it across the table, but it's inappropriate. I don't believe for a moment that the Ministry of Municipal Affairs has taken the care to examine this concept of home ownership and development.

I'll give you an example. The Sewell commission mandates communal sewage systems, and it is right to do that. So all of a sudden some of the rural communities are faced with a problem, because they had an official plan which basically said, "We will do a hamlet development on estate lots, blah, blah, blah." They can't do that now. That's fair. So we'll come along and say, "We'll put this retirement community in here," and we're not talking about Metro Toronto, with 200 people in the planning department; we're talking about a township which has a planner as a consultant and very few staff members, who cannot handle, let's call it sophisticated new concepts, not because they're not extremely intelligent people, but there are just too few of them.

Although he's not here, one of my partners, Don Vallery, from Belwood outside of Fergus, puts in a

communal system in which the effluent is purer than the drinking water in Caledon East, puts in his own communal water system, puts in a road system, 100% serviced for the people. They can't wait to get there. Why? Because it's all there. But the little municipality, the township of Garafraxa, could not handle the kind of complexity this kind of community entails.

The gentleman who appeared before me, who acquired a property some time ago, is telling you exactly what the problems of piecemeal development are: the small water pipes, the septic systems that don't work and so on. What should happen is that a bill should come forward saying: "If you're going to do a land-lease community, that's terrific, that's great. Here are the rules."

**Mr Conway:** There is certainly a very considerable consensus to support you on that on the basis of what I've heard here today.

**The Chair:** Thank you for coming to see us.

GOLDEN HORSESHOE COURT DEVELOPMENTS LTD

**Mr Terrell Heard:** My name is Terrell Heard. I am principal and president of Golden Horseshoe Court Developments Ltd, which owns Golden Horseshoe Court in the towns of Beamsville and Lincoln. We have about 230 units now, with approval for 50-plus more that we've just received through the site plan process, which is quite costly, I might add.

Mr Wessenger's legislation identifies a problem that is real. It's been said so many times today, I hesitate to repeat it for repetition, but there needs to be some legislation dealing directly with mobile homes and land-lease situations. I think that's a point you have taken this afternoon and will move forward at least to investigate.

Even in court cases about applying the Landlord and Tenant Act and so forth, either from our viewpoint or the tenants', judges often get mixed up on really how to apply the thing, because what applies in apartment buildings is not necessarily so in mobile home parks.

Having said that and acknowledging there's a need, I feel this legislation is not the proper answer in its present form. I know that draft amendments are now in order that would render this legislation as we see it perhaps different in a number of ways, but I'm going to address it as it stands today, because that is how it stands today, obviously, and these amendments may not change or be added at all. I think the very fact that there are so many amendments being put forward validates and emphasizes the fallacy of the bill. I speak from a landlord's viewpoint, but I feel we are fair with our tenants. That's another whole issue. I could have brought a letter from our tenants' association commending us for the work we've done, but I would like to address the bill itself.

First of all, there's been something said about seniors. Our park is a mixed group. We were told by the Human Rights Commission that seniors-only is not enforceable, as well as how many children or tenants can move into a unit. So we haven't even attempted to legislate in the park by regulation anything of that nature. We are a mixed community, and our concern in reading this legislation is that it may foster further landlord and tenant confrontations.

"Landlord" has almost become the L-word in Ontario. It's almost as if it's been fostered that: "Landlords are automatically out to get your pocketbook and you'd better watch out. We'll even furnish you a phone number and have someone waiting if you want to call to report your landlord." You know what I'm referring to.

We try to operate a business that does have a legitimate right to make a profit, which is not a bad word, is it? This profit has to take the market into consideration, everybody else's rights involved, and there's plenty of legislation that has helped us toe the line to this point.

Some of the points of this particular legislation before us today: the right of first refusal. We don't even use that in our park and we never have, to my knowledge, even in the past ownership. The park is about 25 years old at this time. We have owned it for about five years. We don't exercise it, but I can see the points in its favour, where it could indeed save good terms with the landlord and tenant and save money for the tenant and real estate fees. It could save time, it could bring convenience and also it could save legal fees.

At the same time, the landlord, if he does choose to opt for this purchase, gives the tenant what he wants for his unit and everybody's still happy, so I can't see the problem with it. If it's worded as such that he must give the tenant what a bona fide offer states, I can agree with that without a problem.

For-sale signs: We have signs in our park and have had ever since we bought ownership of the park. They do not offer me a personal problem, but I have run into a number of complaints or suspicious remarks by people wanting to purchase in the park: "What's going on here?" Martha Lane in our park, for instance, has about six or eight signs clustered within half a block. I have a suspicion that part of the problem is that there's a real grouch on that particular block who goes around causing people definite problems, but it may be that people are upgrading, with today's interest rates, that some of them are moving out to get single detached homes and so forth.

For-sale signs can be intimidating. I don't mind them in the window. We don't even mind them near the front, for that matter. But in respect to those of our park owners and membership in the Ontario Land Lease Federation, I can't see a problem with restricting the signs in terms of their placement, and perhaps a bulletin board, as you saw passed around earlier today. I do not feel there'd be a problem with that. In our park, we would likely continue as we are, regardless.

We have a substantial number of seniors in our park. In reading one of the discussion papers from a while back, it talked about these vulnerable, intimidated seniors. I would like to question that remark in particular. I feel that seniors are well advised, experienced. The ones I deal with in our park know where they're going, and I don't think they're intimidated nearly as it might be suggested. They have a right and wisdom of their own and contribute quite freely and frankly to any meetings we have had with the tenants and park association in the past.

The reserve fund: We pay for our repairs from the rent now, and that works fine with us. I'm just wondering if



this is not another attempt to legislate all of us together, lump us with the so-called bad landlords, to make us do things we really don't want to do. We won't let our parks run down. We won't allow our parks to deteriorate while we're pocketing all these vast funds. I have not yet taken a salary from our park and don't intend to. My investment is long-term. At some point in time I hope we can cash some of it out and use it for our own benefit, but right now, everything's put back in.

1610

We have the biggest investment of anybody in the park. Our investment and our park regulations are in fact what makes the tenants' investment worth anything at all. We have units for sale right now privately at \$45,000, that if you put them on the street would be worth \$4,000 at the most, if you could find a buyer. It's because we have park regulations that require of the tenants the same things that the Landlord and Tenant Act requires of us. "You keep your yard straight, keep your act up, and we'll do ours the same." It's working quite well, with the minor bobble and the occasional court confrontation, but it nevertheless is doing the job.

I don't feel we need this particular legislation, especially to address a few problems. We've got bad landlords, no question. I've heard the horror stories, as you have. But in our case, the municipality has legislation, a bylaw. Put the onus on municipalities. Let them deal with their problem. Why send it up to you guys? Let them handle it locally, put a bylaw into effect. They're best able to look over it from where they are.

While this legislation may have noble intent and seem quite innocent in some ways, it takes a lot into assumption. Regarding this reserve fund, it seemingly assumes that all or a majority of landlords are negligent in keeping up their park and thus it requires more laws to save the tenants. It assumes that landlords have ample funds to front this reserve fund and pay the expense money into an account rather than pay as we go. That is absolutely not true.

It assumes landlords have money available for independent studies periodically. How often, and how much are they going to cost? In our present development we have had to do some independent studies, and they're not cheap, anywhere from \$4,000 to \$6,000 for particular studies we've done on noise vibration, study of the infrastructure and so forth. These don't come cheap, and to legislate that out of the landlord's existing rents I don't think would be quite fair without knowing his financial affairs. If the reserve fund is inadequate, the bill says simply, "Take more out of the rent." I'd like to know where the magic wand's going to come from to accomplish this. You can legislate anything you want, but that doesn't provide the money to look after it.

Another point is that it be put in a trust account. There's more bookkeeping, more red tape, more documentation. Most of these operations are ma-and-pa operations and I don't think they need the extra headache and so forth that goes along with this extra burden of paperwork.

I don't agree also with section 128.4. Why should a copy be sent to the tenants if there is a study done? Who

is maintaining the park? In my experience, in a park our size, you've got some activists who, it doesn't matter what bait you throw out there, they're ready to tangle with you and tackle you and drag you, bloody and beaten, down the streets if they think they can get anything done. This is not an exaggerated opinion. I could tell you stories if you wish, regardless of the fact that we have done very much to have a good relationship with our people in the park, with the tenants there.

I don't feel our personal, private business figures are any of their business, and at some point in time I fear this might have to be brought out in court or whatever. It infringes on my rights as a private businessman, so I don't think that's totally in order. More studies should be done on that account.

Section 128.6: What kind of security is this that they might be asking, what kind of information would be disclosed, and what additional criteria? These questions should be answered as well.

The conclusion drawn by myself regarding this legislation is that it seems to shore up the old fight between the landlord and the tenant, that landlords are taking advantage of tenants and they need more government protection. Frankly, we're functioning to the same successful end that this legislation purports to end up with. We're working with the tenants, we're repairing structures, infrastructures, streets, maintaining the place. Each year we probably have \$100,000 or more that goes towards maintenance in our park.

Whether it's a sewer plug-up, which happens anywhere—I don't think it's because of a bad landlord that a sewer backs up in someone's backyard. It's just a common maintenance problem. But because we had a sewer backup, we've been painted as all kinds of things. We've been in the local paper for it, until finally we wised up the paper and city council, and city council had to withdraw a couple of their orders against us, embarrassingly so, because they didn't have adequate information. Someone took a picture of a mud puddle from three different angles, sent it in and the city council said, "Stop development." We were still developing that particular street corner.

These are things that do arise, and over time we can work them out, but I think we need to be allowed, instead of Big Daddy government doing so much for us. Common sense should prevail in a lot of areas, and if people don't have common sense, I guess we do need more detailed legislation. But if you're doing to detail it, make it fair on both sides. Don't give it all to the tenants. I feel the Landlord and Tenant Act ought to be renamed the Tenant Act, personally, because it seems to give more favour to them. They challenge us at times on minute points, because they feel they're untouchable. I don't mean to paint our park as one that's always giving trouble, but I could drive down the streets and tell you who are the ones who do cause it. In fact, you wouldn't have to ask. When they saw me driving down the road, they'd probably come and introduce themselves.

Of all the legislation in this particular bill, the reserve fund is what causes me the most concern. If you're going to legislate the fund into existence, you should also



legislate rent increases along with it. To fund any short-fall amount, as determined by the so-called studies—if we're presently spending \$100,000 a year and a study shows we need \$120,000, I think we should be allowed to increase the rents to catch that \$20,000 and put it into the fund. We should be allowed some time to build the fund up as well, and we should also be allowed periodically to increase the rent specifically based on the need of this fund, if there's going to be a fund, because you can't legislate an answer without legislating some finances to go with it. It's just not good business and it just won't work.

Earlier this morning, Big Cedar was here, and they talked about the reserve fund working well for them. It ought to, because they got their property turned over to them for \$1, as you heard them say. Unfortunately, we paid over \$2 million for ours, and with mortgaging in place we can't just have a reserve fund quite so easily. Even with that, it took them six years, I believe they said, to establish their fund to the point where it is now, and they had a \$25,000 kicker in there to start with and got the land, or the park, for \$1. I don't think that should be used to persuade the committee here that that's a great idea.

Plus, two or three years ago, legislation was passed that forbade us from passing on legitimate costs in the form of higher rents to our tenants. We are now required to perform the same duties with more limited amounts of money, even though they are legitimate costs. If any other business remodelled their place, who's going to stop them from boosting up the amounts just a bit to help recover it? Good business practice says you do it or you go under, and it's no different in the situation we're in except that we're dealing with an apple-pie-and-motherhood issue when you're talking about housing.

1620

But there's two sides to this thing. If the government wants to provide the housing, that's one issue. If they want private landlords to do it, they've got to make the means available to allow them to do it with the proper financing and not operating on some sort of shoestring, where the tenants and everybody else would be likely to go under if something happened. It's ludicrous to even think it's possible to do it that way. The things we're dealing with here are more far-reaching than just putting out a new bill. They involve the security not just of landlords and investments for the landlords but of the people themselves. If the landlords are put in fiscal jeopardy, so goes the investment, unless the government or the mortgage companies pick it up.

I have a couple of questions that might bear asking at this time. If we have a reserve fund and we run short one month in our budget, are we going to pay our mortgage or are we going to pay into the reserve fund? It's a very real situation. It will happen, because we just don't have all kinds of money flowing through the place ready to be thrown wherever it will. That needs to be looked at as well. If you legislate it, there needs to be some sort of cushion, some sort of measure to allow for this money and so forth to be there when it is necessary. It is a legitimate business, deserves a right to make a profit, and

this legislation doesn't fully take into account—again I say the P-word—the profits of the L-word, landlords. It doesn't take into proper consideration these things, and it desecrates the rights of land ownership to boot. I don't think it's thought through well enough, with all good intentions, I'm sure. There's just too much involved.

I appreciate the time for landlords and land owners to be able to present what we are presenting to you this day. To get a fair consideration, all the points you've heard today as well as this need to be taken.

Another point, in closing my remarks: What of affordable housing? By being brought into the site plan agreement process, we've added at least \$1,000 to the cost of our units. The developers' lot levy that's just been introduced in the last couple of years has added \$2,200 per lot to each lot right off the bat before we can get a building permit. The GST has added another \$3,000 or \$4,000 to each purchase. You've got \$6,000 or \$7,000 in the last two years that have been added to the price of what should be affordable housing. There are some areas government ought to keep its fingers off of in terms of money, taxing and so forth, and this would be in affordable housing, if anywhere, but we are being battered by this. Therefore, anything further would only cause bigger problems and threaten the available stocks of affordable housing.

Also, the mortgage companies through which we have financed require similar upkeep and maintenance to what is being required already by the Landlord and Tenant Act and further by this legislation. Do we really need any more on us to try to force us to keep up our already lifetime investment? This one-size-fits-all legislation might just end up not fitting anybody, and it needs to be considered.

Also, the Landlord and Tenant Act, 125(2)—

**The Chair:** You have about one minute, Mr Heard.

**Mr Heard:** I won't even need that. This legislation does not apply to "premises administered by or for the governments of Canada or Ontario or a municipality or any agency thereof." This automatically says: "You landlords do it; you make it work. We'll legislate it, but we don't want to touch it with a 10-foot pole." I know this is a standard clause in a lot of legislation, but when it comes to money that's not there, it's wishful thinking, and it's going to cause great problems.

**The Chair:** We appreciate your presentation.

**Mr Mills:** It's unfortunate we have no time for rebuttal.

**The Chair:** Usually this time is used to discuss issues.

#### TRENTON TRAILER PARK TENANTS

**Mr Robert Cove:** Thank you for letting us speak today. My name's Robert Cove. I'm the spokesperson for the people of Trenton Trailer Park in Belleville, Ontario. I'd like to address this committee not only for myself but also as a representative of those people, 49 single-family units in that area.

We're all very much in favour of Bill 21. The bill will offer us additional protection as tenants who lease land for use as a site for our mobile homes. Although this bill



will not stop landlords from closing mobile home parks, a situation we now face and others will certainly face in the future, we feel it will provide some sort of compensation due to the loss of sale, devaluation of our homes, as well as other economic losses which come as a result of landlords no longer wishing to maintain and run mobile home parks. They are forcing us to move our mobile homes, causing in some situations major structural damage, while others are being forced to leave their homes heavily mortgaged and with no place to take them.

We tenants are subject to one of the bad-cat landlords. If you'll turn the first page, you'll see he's introduced applications for rent increases, a 28% rent increase on the next occasion. It was turned down, so he decided he wanted to close the park. He decided, "Okay, if that's the case, I'm going to go for a 42% rent increase." That was turned down, so he decided he was going to close the park. The third time is right now, and he knows he can't even ask for any more than what's allowed, and he's asking for a 69.8% rent increase.

We're being penalized for the rent control system—that's exactly what it is—so we have to agree with what people are saying, that something separate has to be done for us people.

Until now we've been able to ward off his attempts. Unfortunately, at our last hearing we were told by the judge that there are no laws out there to protect us, period. If he wants to close the park, he can close the park, period. There's nothing we can do about it. There's no recourse.

We haven't complained about park situations. We can certainly sympathize with the Subway trailer association. I know some of the members here have also been involved with that park. We have had a lot of problems in there, but we haven't complained about it. At this point, we just want to keep the park open, and Bill 21 is certainly one way of doing it.

We've been told that our park's closure is inevitable in the spring of this year. That makes the retroactive portion of this very important to us, because we're faced with it very soon.

During this hearing we've heard no opposition to the portion Mr Wessenger put in there about compensation due to park closures. If there's no opposition, could that section be approved and put forth immediately? That's something we need. Whether it goes through the Ministry of Housing or wherever, it's something we need right now. We need all the help we can get.

We do support the retroactive clause, obviously, because of that. We started in 1991 and we've held him off until now, but our life is dying very quickly. There's not much we can do in this case.

The remainder of the bill should possibly go to an established committee of tenants, landlords and government people. That might be a real good way of doing things. But what this bill was presented for, really, is protection for the tenants, not the landlords. Maybe there should be a separate bill. It seems to me there have been a lot of landlords and a lot of people they call heavy investors in there looking at ways of saving them. Maybe

they're just trying to put the bill off so they can buy themselves some more time. This is something that's needed for the tenants, and if more people knew about this—I didn't know about it. I was never served with this. If more people knew about it, I'll tell you, this room would be full of tenants.

The tenants also have a very big risk in this. Our park, for example, is only 49 units, but we've got over \$2 million worth of property that's going to have to be walked away from. Who's going to pay for that? Who's going to pay to put me into another house? That's exactly what you're expressing in this.

As to the landlords coming in here saying it's a two-sided street, well, let's get them a bill too. Okay, fine. But this one should go through. There's a lot of people relying on it, even if they're not here today. That was the land-lease federation that suggested that, and maybe they should follow up. It's a real good deal, you want to make sure everybody's concerns are heard, but at this point I think we're asking about the concerns of the tenants.

We'd like to thank Mr Wessenger for introducing this bill. I don't think it was so badly written, myself. I think it depends on who's reading it as to how badly it was written. I hear an awful lot of complaints about the changes to the bill. We just heard that it's mostly language. Well, come on, let's get off it. Let's get with the issues and not worry about language. If there are a few things that are changing in language, okay, let them go, but let's get the issues taken care of. There are a lot of very important issues in this bill.

1630

In closing, I would like to make a request of the committee on behalf of myself and the tenants who were unable to attend. It would be greatly appreciated if the committee would consider going around into other areas, maybe setting other hearing dates so that people who didn't know about this one can come to the next one and actually get a really good voice of opinion. Maybe you could choose other areas, going to the Cobourg-Belleville area, because there are a lot of parks in there.

I know another park presented today. Actually, they're a very good park and they don't have any problems with their landlord, but they also support Bill 21 because there are certain clauses in there that protect them against the future. A lot of people don't know how much they're hanging out there by a thread. Unless they're faced with the situation, how could they come in and support such a bill when they're sitting back there saying, "I pay my rent, so I've got a place to live"?

I'd like to thank you very much for presenting this. I really hope you don't take out that retroactive part, because we're all about to be out on our butts and we need some protection.

**Mrs Marland:** I don't have any questions. You were very clear in what you had to say. Have you been here all day?

**Mr Cove:** Yes.

**Mrs Marland:** Then you heard Mr Wessenger say—I say this as much for the previous presenter as for you—that two of the changes he is bringing in as amendments

are that he is taking the retroactivity out, and he's also taking out the requirement for reserve funds. You heard him say that.

**Mr Cove:** I did, yes. Could I make a comment on the reserve funds? A couple of people in here said there's something in the process right now where people can go ahead and make sure they get paid, this compensation package, for repairs, that they want to put all this money aside. Well, the landlords, as it stands right now, if they get hit with a heavy bill they don't want to pay, can just close the park. If having to put this lump sum of money away is going to close the park or is going to cause problems, what's the difference between that and the current system we have right now?

**Mrs Marland:** As it's not going to be in the bill, it probably isn't worth pursuing. But because you put forward the problems of the built-property owners very clearly, what is the solution? If you had been the person who owned the property—and I can tell you that in Cedar Grove in Mississauga, the family has owned that property for over 40 years and that is the money for their retirement. That's their whole family's equity. If they can't get out of it, what is the answer? What is an equitable solution?

**Mr Cove:** I think it should go a lot further than just not being able to get out of it. If you read through our brief, our landlord tells us about the unfair rent controls and the Landlord and Tenant Act. There's a big difference between a rent increase on a small \$100-a-month lot and an apartment, and that should be taken into consideration. They should be able to get more money for the services they're allowing.

**Mrs Marland:** I don't agree with 40% rent increases either, but what is the fair solution in terms of the property rights of the people who own the property? That's what I've been asking people all day. It's fine to come in and wave a flag as a landlord or come in and wave a flag as a tenant, but the point is, you're both property owners and you can't say, "The tenant's rights have to come first."

**Mr Bill Williams:** I'm Bill Williams, also from the trailer park. You should be able to get together with each other, but when you have a bad-cat landlord, it's hard to sit down and talk to him on a one-to-one basis. Maybe if it was a better landlord you could sit down as a committee, but if we went up as a group to our landlord, he wouldn't let us in and talk to us. He's a bad-cat landlord, as was stated before.

**Mrs Marland:** So we need legislation to address the people who are totally unreasonable.

**Mr Wessenger:** Thank you very much for your presentation. I did hear your views on the whole question of retroactivity and I am concerned about that issue. I should clarify that I will not be bringing that amendment but that amendment may be moved by someone else.

**Mrs Marland:** Oh, this is coming from God, is it?

**Mr Wessenger:** I just want to assure you that I would like it to be retroactive.

However, I am concerned about you losing possession. There presently is an application before the court under

the Landlord and Tenant Act to terminate all your tenancies, is that correct?

**Mr Cove:** That's correct, yes.

**Mr Wessenger:** Do you know when the date of hearing for that is?

**Mr Cove:** No. It was supposed to come into the spring opening; that's all I know.

**Mr Wessenger:** The spring opening, so it would be very important for you to have this legislation passed before that hearing date. If it was passed before that hearing date, the judge would not be able to make any order with respect to terminating your tenancies. I must say, the first interest I have in this legislation is dealing with that issue of protecting your tenancy; that's what I consider the most important aspect. This whole bill is important, but I think that carries precedence over everything else and is the reason for the urgency of getting this legislation through as quickly as possible.

**Mr Cove:** I agree.

**Mr Mills:** Thank you, gentlemen. I think it takes some degree of courage to come here and appear before a public committee of the Legislature of Ontario and complain about some dastardly—get the word "dastardly"—landlord, and you have every right to do that.

I just want to tell you that I was sent to the Legislature of the province of Ontario to represent people, and if those people come to me with a complaint—I can assure you, for the benefit of others in the room, that I don't scratch my head and say, "What can I do to get at landlords this month, because I don't like them?" I respond to the complaints of my community.

You won't be here tomorrow because you probably have to work and you've taken the time to come here for this, but I can tell you, people from my community will be here tomorrow. You won't be able to get a seat. More than 700 of them—in most cases, these are not poor people, but they have such a concern about what's happening with leased lots and trailer parks and everything that over 700 of them have signed a petition that I will present to the Legislature on March 21 demanding that this committee pass Bill 21. It's that important to them. These folks will be here tomorrow, wall to wall, at 10 o'clock. That's how they see this.

It really upsets me when I hear people talking about Big Daddy and the landlord, that all the legislation is for the tenants. Cripes, they're the ones who are coming and telling me about their problems, and I have to act or react as a legislator on their behalf. I don't see anything wrong in that, but you hear it the other way.

I just want to tell you about your site. A gentleman has written to us, and this is absolutely atrocious. They're trying to close down the park, and this person tells me that in 1988 their home was appraised at \$42,900, and now through the action of this person who owns your park, he says, "I'll be lucky to get \$6,000." This guy's got no income, he's a senior, and he will be on welfare if this happens. No wonder I get mad, and you should get mad.

**Mr Cove:** My home is in the same situation as the other 49 units. As a matter of fact, as you'll see in the



back, real estate companies haven't been coming in for years. They won't, because he's closing it.

**Mr Mills:** And it burns me up when a bunch of landlords or owners come in and say, "You guys are down on landlords."

1640

**Mrs Fawcett:** Welcome, gentlemen. I'm glad to see you here. You've been very patient, listening all day. I should recognize Mr Grawberg as well, with your group. I know your situation is a really bad one. I've been to a meeting; one of my staff has been to a meeting. Have you had any luck at all with the municipality to enforce anything on the landlord?

**Mr Cove:** No. We've been told all the municipality does is supply the licence. That's it. That's all they do. That's what its jurisdiction is, period.

**Mrs Fawcett:** Is the landlord doing any of the repairs and upkeep and those kinds of things? Is he using the rent to improve your—

**Mr Cove:** No. As a matter of fact, he's complaining that he's not getting enough. As you can see through these increases, he's doing the bare minimum just to keep the park going. He's closing it, so why bother?

**Mrs Fawcett:** I know Mr Wessenger has met with you and is concerned, but I'm also concerned about the retroactivity clause, because we were told that is now being removed, that it is not going to be there for you. That is a real concern. Now, again, you will have no protection. Is it possible for your group to form a cooperative and purchase the land?

**Mr Cove:** As a matter of fact, we're meeting tomorrow night to look at that because, besides this bill, that's our last hope. The application has been put forth before. There are no funds available to us to purchase it. We're buying fresh air, and nobody's going to accommodate that. Unless Cec—and we all know what we're up against with this landlord—is prepared to sit down and talk to us about a deal, we're out, period.

**Mrs Fawcett:** And so far, has he ever talked with you? Will he meet with you?

**Mr Cove:** I met with him, actually, on the last night of rental payments, on the 1st. I talked to him about this 68% and asked him, "Look, if we pay this, is there a chance this park will stay open?" He said, "Yes, but expect another increase next year." We were actually going to go to the Ministry of Housing. We've been doing anything to keep this park open. We have no choice in this. This landlord wants more money, and the rent review board says no. Who's the one who gets hurt? We're the ones who are going to be taking the brunt of the system.

It's all through all his paperwork: unfair Landlord and Tenant Act, unfair rent control. They're there, but how do you enforce them? You enforce them by having the park close and us tenants be out. I'm not blaming anybody for it, but that's the harsh reality.

**Mrs Fawcett:** My colleague wishes to ask you a question as well. I've got a million more I'd like you to put on the record.

**Mr Daigeler:** I took a quick look at the documentation you left with us. On the last page, either the agent or your landlord himself says that any prospective purchasers must be made aware of the fact that the licence to operate this park expired on 31 December 1990, and that this licence has not been renewed and is not likely to be renewed from Murray township. In view of what is being said here, I'm not clear how Bill 21 would even help you, retroactive or not.

**Mr Cove:** That statement was false. The licence was current; his licence was paid up. As soon as we got this, we contacted Murray township and they said, "Oh, yes, they've got a full licence." That's only once a year. He can't just cancel his licence.

**Mr Daigeler:** I see. So Murray township continues to be interested in having the park there.

**Mr Cove:** Absolutely. They said they'd do anything they could to help us, but all they can do is sign the licence and send it out.

**Mr Daigeler:** This is contrary to what is said in here.

**Mr Cove:** Yes. We couldn't find a truck big enough to bring the paperwork. It's full of it, the whole case is full of it, right from the top to the bottom.

**Mr Daigeler:** There is a serious problem. I remember in my own city, about six years ago there was a park the owner wanted to sell, and of course the tenants didn't want to leave. You may be in a similar situation. I'm not prepared, just on the face of it, to say either side is right. I think there has to be a possibility for the owner of the park to sell. Now, I understand the consequences for you. It was quite controversial in my city. In the end, with the agreement of the municipality, the park was sold and of course they had to move.

**The Chair:** Your time has now expired, Mr Daigeler.

Thank you for coming to see us. We appreciate it.

JOSEPH JOY

MILTON CORBIERE

**Mr Joseph Joy:** Good afternoon. Thank you for the opportunity of coming here this afternoon. First, I have to apologize to you: I'm johnny-come-lately. I only learned about this hearing about two weeks ago. Nobody in our park was aware of it. I was then told to get in touch with Mr Wessenger's office, which I did. We got a response from Mr Wessenger and we're very pleased.

Unfortunately, gentlemen, on Friday I got your letter from your office; my wife had to rush to the hospital into intensive care. She's there now. She's critically ill. I haven't had a chance to study this bill whatsoever, so I have to speak in generalities.

I don't think you people on this committee are ignorant of the fact we come from Pinetree Village. Pinetree Village is unique in many ways. We have many problems. Let me start.

In the early days when rent controls came into being by the government of the day, I don't think mobile homes were even considered in that sense. I think they were thinking of apartment buildings etc. Mobile homes weren't even thought of because, first, they didn't contribute too much to any municipality as far as taxes

go, so there wasn't too much thought given to these mobile homes.

Anyway, people bought them—I'm speaking of the seniors and people of low income—for economical reasons. It was very reasonable at that time. It was \$100 for your licence fee for the year and your rent was \$100. However, that soon changed. As you're aware, the first thing that hit us was market value assessment in Niagara Falls, 1982. My taxes went up immediately nearly 600%, as did everybody else's.

The landlord, in his wisdom, decided to buy a business elsewhere, so he brought in management. Not losing sight of the fact that there were only 45 units in our park at that time—45 units, gentlemen and ladies; keep this in mind—he applied to the regional rent control board for an increase of 25% in order to accommodate himself and his family. This was granted. The following year he applied for another 20% and it was granted. The people in the park were now very frustrated between market value assessment putting their taxes way up and these huge increases.

The people in the park became very angry. The roads were in terrible condition. People were breaking their springs etc, so they were getting very angry. He decided then he was going to do something about his roads because people were talking about suing him. He had a representative come from the rent control board to speak to us. This gentleman came along and said: "I want you to listen very carefully. Your roads are going to be seen to. They're going to be asphalted. However, the landlord has to borrow \$60,000, and of course this will be offset by an increase in your rent."

I immediately objected. I said, "Look, if this gentleman asphalt his roads, he is the big benefactor, because if he sells it the next week the value of his property has gone way up." That was number one. Anyway, this gentleman wouldn't listen to this at all. He went ahead and gave him another 17% that we would have to pay off this loan. Remember, he said, "You pay off the loan." When you think about it, that's about 64% of increases in three years.

We went over, Mr Corbiere, myself and a couple of others, to the rent control office, and I brought this to the attention of the person there. I said: "This loan has been paid for over and over and over. Where does it stop?" The lady looked at me and she said, "Ha, that has now become an increase in rent." How do we win? We have no recourse. We're getting caught left, right and centre.

We hear about the landlords doing repairs. I don't think our landlord knows what the word "repair" means. Right now there's a big debate going on with the city and the rent control board and him, because he won't repair people's pads. The pads have cracked. You can see we have a problem. You can go on and on with these types of problems, as far as I'm concerned.

1650

He had these 45 units in the park, and he got this 17%. After it was granted, I would say within a period of three months he installed another 12, and then he gradually put in more. I'm not losing sight of the fact that

once he's put these in he's getting further increases to pay off this loan. At no time has he ever said to us, "The loan's paid off; this is what's owed," nothing. I have spoken to him about it. He just ignores me and walks away. You just can't win.

When I look at these guidelines for the rent control board, I wrote a letter to the Minister of Housing and said I don't think this gentleman qualifies for increases yearly. How can he? When I read the guideline it continues to speak of buildings, that he's responsible for the heating, repairs, maintenance etc etc. Let me tell you, and I'm sure you're aware of it, we're each and every one a separate unit. We all are responsible for all our own repairs, our heat, you name it. We are responsible. He doesn't do a darned thing. As far as repairs go, we haven't seen a thing done to our park since 1985 when the roads were repaired.

In terms of recreation in a park such as that, there's nothing. As I say, many people bought these and they were prepared for the inconveniences. But when these increases were installed against them it became a different kettle of fish. They were getting very angry. Right now you can hardly give your home away in our park. Now, our park may be unique—

**Mr Mills:** It isn't.

**Mr Joy:** Well, in this regard it may be.

**Mr Milton Corbiere:** It is to us.

**Mr Joy:** It is. We have right now, at this particular moment, water sitting outside our road which the city put in. The escarpment people and this gentleman had a big fight. I won't go into details, but I sat at the meeting and I was astounded to hear some of the things said by the escarpment people. I'll make it brief. The fellow from the escarpment said he was aware that all this work was going on, as was the hydro, as was the city. Nothing was done about it. I said, "Why wasn't there a stop order put on this man?" He said, "We wait till they've finished completing the job, then we step in."

Did you ever hear anything so ridiculous in all your life? He watches this guy bringing in these homes, setting them up. These people have put their money into it and now they're in limbo. They were threatened last year that their homes would be torn down. Just visualize these people. Some of them have got \$70,000, their life savings in there. This man, I say a culprit, was fully aware of what he was doing, yet he gets away with it. These people are subjected to this kind of pressure.

I just don't know where these increases are going to end. The thing that bothers me is how this rent control board has got so much power. They're appointed people; they're not elected people. When you go into their offices they just say: "That's an increase. That's okay." Well, it's not okay. I don't know whether our MPP can do anything about it. I don't think she can, somehow. But why should these people be in a position where they can say to you, "We're going to put a 17% increase on your land"? There should be some form of recourse.

I'm very sorry that I hadn't time to check this bill. I'm sure it's to our advantage—I hope—but I will give it a lot of reading when I go home. My wife's in the position



to come out of the hospital soon. I want to thank you very much. Mr Corbiere has something to add.

**Mr Corbiere:** We're very concerned about what was going on in the park. There are a lot of things that should be done that are not being done. I wish you people would get to the bottom of it, one way or the other.

**Mr Joy:** I'm sorry we couldn't make a better presentation, but due to the emergency—

**The Chair:** The presentation was excellent.

**Mr Joy:** This lady here asked the gentleman who was here about what the answer was to these increases. I would suggest very strongly that I feel this gentleman shouldn't be getting these yearly increases. A rate should be set for this gentleman, and then every five years or three years he can apply for an increase. I don't think there's justification for him to be getting a 5% or 4% increase yearly. A lot of people think it's a \$4 or \$5 increase, but we're talking percentage, and it soon mounts up. Where is it going to end? It'll get to the point where we won't be able to pay our rent. Every year we get increases, increases, and most of the people right now are hardly in a position to meet these demands. I'm sorry the lady is gone, but I would suggest a set rate.

**Mr Mammoliti:** Just a clarification: You spoke about rent control in 1985, roads being built under rent control. The landlord was able to increase rents to pave roads?

**Mr Joy:** The road was already there. Don't misunderstand me. The road was already there, but it was just a rough road.

**Mr Mammoliti:** But they got approval from the ministry to increase rents to do that work. Let me clarify for you: In 1985 there was a bill called rent review, if I'm not mistaken, a Liberal piece of legislation—

**The Chair:** No, it wasn't.

**Mr Joy:** Watch it, watch it.

**Mr Mammoliti:** It was Conservative rent control?

**Mr Joy:** Conservative.

**Mr Mammoliti:** Okay. With that particular piece of legislation, that's how the rent increases were determined at that time. Now there's another rent control package in place but almost totally different from the package you're accustomed to in 1985. This is a clarification to the author of the bill. Paul, would this Bill 21 incorporate the Rent Control Act, or is that already in place?

**Mr Wessenger:** It's already in place. This bill does not in any way relate to rent control.

**Mr Mammoliti:** All right. In view of that—and I'm sorry for taking so long, but I'm a little confused—your landlord can apply for a rent increase, but can only apply for a certain amount of money over an amortized amount of time for a loan, such as the one that took place in 1985, to be paid back. Once that's paid back, the rent has to go down to where it was before the rent increase was approved.

**Mr Corbiere:** Which it never has.

**Mr Mammoliti:** That's the difference with the piece of legislation now that we've brought in in rent control.

**Mr Joy:** When we were presented with this increase,

the gentleman from the rent control board indicated it was a loan. When you tell me it's a loan, I expect I'm paying that loan; that is my loan—that's how it was presented to us—and after three to four years that loan is surely paid off. There's been nothing said about bringing the rent back down. The lady at the rent control said to me: "Oh, no. That now became an increase in rent." In other words, this man had about a 23% increase that year. You see my point?

**Mr Mammoliti:** Yes, I see your point. I just think that with the rent control system that's in place now, it would protect you in the future—

**Mr Joy:** Are you speaking of Mr Wessenger's bill?

**Mr Mammoliti:** I'm speaking in reference to the Rent Control Act that's in place now. It would protect you from future increases such as the ones you've experienced, in that your rent would end up going back down after the loan was paid off. That's the difference.

**Mr Joy:** Unfortunately, that's not the situation with us at all. It's already been established.

**Mr Mammoliti:** I recognize that, but I just wanted to clarify that.

**Mr Joy:** He's been kicking the people right, left and centre. We are subjected to huge increases. I would just like to ask this committee, in all seriousness, how are we going to get around this, to stop these increases? The people who own apartment buildings are responsible for everything, they are, but this fellow's not. He is not responsible for anything. As a matter of fact, just three weeks ago, there's a gentleman in Florida whose line busted. I had to get underneath and fix it. The landlord wouldn't fix it. It's not his problem.

**Mr Mammoliti:** The other point you should remember is that if the landlord wants to increase rent now and the landlord's not doing any work at all at this point, you could actually, with the new rent control system, apply for a rent reduction. That's something you should know.

**Mr Joy:** I'd better check that out.

**Mr Corbiere:** The only thing he does is snow removal, with a tractor with a blade on the back of it. It's only three roads for him to plow or whatever he does. It depends, of course, on how much snow you get.

**Mr Joy:** Let me just finish by saying that within eight years my rent has gone up 123%. Some people may not be able to afford that. Fortunately, I've got my wife, who's working, helping me a lot. That's all I have to say, gentlemen. Thank you very kindly.

**The Vice-Chair:** We're not quite finished. We changed Chairs because the Chairman wants to ask a question. You may have been wondering why all of a sudden the Chairman looked so much better.

**Mr Michael A. Brown (Algoma-Manitoulin):** Thank you, Mr Chair. I just wanted to be a little helpful to you in terms of the rent control legislation Mr Mammoliti was trying to be helpful with. It did change just a couple of years ago, and I was involved as the Chair of the committee. Mr Mammoliti forgot to point out that the amendment that now, once the road is paid for, it will be removed from the rent, was placed by my colleague

Dianne Poole, the member for Eglinton—

**Mr Mammoliti:** She stole my amendment.

**Mr Brown:** —and was actually passed by the committee, one of the times the Liberal opposition is somewhat helpful.

**Mr Joy:** You said two years ago this change came into being?

**Mr Brown:** Yes.

**Mr Joy:** We were there less than a year ago at the rent control office and the lady just said, "Oh, no, that 17% stands."

**Mr Brown:** It doesn't affect retroactively what happened about your road, but if he was to do that again, it would be in place. Unfortunately, under the new Rent Control Act, it's not likely that you would ever get the road fixed. But that's another question.

**Mr Mammoliti:** That's not true; that's crap.

**The Vice-Chair:** Order, please.

**Mr Corbiere:** In light of what's going on here, how do you stop this so-called landlord from yearly increases

in rent, which we are getting nothing for? We don't get anything.

**Mr Brown:** As you would know, sir, under the NDP Rent Control Act, Bill 121, you are seeing the largest real rent increases in the history of rent control in Ontario—

**Mr Joy:** The election's not till next year, you know.

**Mr Brown:** —which I find is quite interesting.

**Mr Mammoliti:** That's absolutely false.

**Mr Brown:** There is some remedy under the act, that if there is an order by a municipality against the landlord and it's not enforced, you can go to rent control, and any increase he asked for will be disallowed, if that's helpful.

**The Vice-Chair:** Thank you very much again for coming. We do hope your wife will be better soon.

**Mr Joy:** Thank you very kindly. As a last comment, I think the Chairman should keep his remarks for next year, because that's your election year, not this year.

**The Vice-Chair:** We'll see the committee tomorrow morning at 10 o'clock.

The committee adjourned at 1704.

## ERRATUM

No.	Page	Column	Line	Should read:
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

**\*Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

    Arnott, Ted (Wellington PC)

**\*Dadamo, George** (Windsor-Sandwich ND)

**\*Fletcher, Derek** (Guelph ND)

    Grandmaître, Bernard (Ottawa East/-Est L)

    Johnson, David (Don Mills PC)

**\*Mammoliti, George** (Yorkview ND)

    Morrow, Mark (Wentworth East/-Est ND)

    Sorbara, Gregory S. (York Centre L)

**\*Wessenger, Paul** (Simcoe Centre ND)

**\*White, Drummond** (Durham Centre ND)

*\*In attendance / présents*

### **Substitutions present/ Membres remplaçants présents:**

Conway, Sean G. (Renfrew North/-Nord L) for Mr Grandmaître

Fawcett, Joan M. (Northumberland L) for Mr Sorbara

Marland, Margaret (Mississauga South/-Sud PC) for Mr David Johnson

Mills, Gordon (Durham East/-Est ND) for Mr Morrow

Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND) for Mr Dadamo

### **Also taking part / Autres participants et participantes:**

Johnson, David (Don Mills PC)

McLean, Allan K. (Simcoe East/-Est PC)

Morris, Noah, policy adviser, existing housing stock, Ministry of Housing

Sterling, Norman W. (Carleton PC)

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service



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## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 16 February 1994

# Journal des débats (Hansard)

Mercredi 16 février 1994

## Standing committee on general government

Land Lease Statute Law  
Amendment Act, 1993

## Comité permanent des affaires gouvernementales

Loi de 1993 modifiant des lois  
en ce qui concerne les terrains à bail



Chair: Michael A. Brown  
Clerk: Franco Carrozza

Président : Michael A. Brown  
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Wednesday 16 February 1994

The committee met at 1005 in the Humber Room, Macdonald Block, Toronto.

LAND LEASE STATUTE LAW  
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE LES TERRAINS À BAIL

Consideration of Bill 21, An Act to amend certain Acts with respect to Land Leases / Projet de loi 21, Loi modifiant certaines lois en ce qui concerne les terrains à bail.

WILMOT CREEK HOMEOWNERS' ASSOCIATION

**The Vice-Chair (Mr Hans Daigeler):** Even though a few members are late, we have a very tight agenda and I think we should get started.

The first presenter this morning is the Wilmot Creek Homeowners' Association. You'll have 20 minutes, and if you'd like to leave some time for questions and answers it would be appreciated. Please go ahead.

**Mrs Ruth Hinkley:** Thank you, Mr Daigeler. My name is Ruth Hinkley. I'm vice-president, government liaison for the Wilmot Creek Homeowners' Association. At my side is Gerry Whalen, an association director and chairman of the association's rights and obligations committee.

We speak today on behalf of the 960 members of the association; that is 96% of the 1,000 residents of the retirement community of Wilmot Creek. We have attached to our brief a profile of the community, and this is appendix 6. It provides information about the houses, the amenities and the rental costs. The latter has a bearing on Bill 21 in relation to the need for financial disclosure. It is noted that as well as the 24.4% retroactive to the 1989 recent rent increase there is still an appeal pending for a 1990 15% increase.

We appreciate the opportunity to speak today to the proposals in Bill 21. Also, we express the hope that there will be an opportunity at a later date to speak to the 20 or 30 amendments that are proposed, as we learned yesterday. In that regard I note that on the brief before you we do comment on the reserve fund and the right of first refusal. Both, as stated by Mr Wessinger, are slated for other amendments.

However, we are pleased that through the Land Lease Statute Law Amendment Act, 1993, recognition has been given to the reality of land-lease communities and land-lease community homes in the province of Ontario. This is an important action by the government, and appreciation is expressed first to the present government and second to members of past governments who attempted to help their constituents in such communities.

In the case of the Wilmot Creek tenants we recognize that it has been the efforts of Mr Gordon Mills, MPP, Durham East, since he took office in 1990, that have led to the recognition of land-lease communities and the problems that were not dealt with through the Landlord

and Tenant Act. In that regard we note that rather than amendments and additions to the Landlord and Tenant Act, the Rental Housing Protection Act and the Planning Act, preference is for a separate act which would relate only to land-lease communities.

This proposal was put forward to the interministerial committee established by the previous government to carry out a review of planned retirement communities. As well, it was part of a submission made by the Provincial Council of Women of Ontario in its brief to the government in 1990. The support of that council is much appreciated by the members of our association. A profile of the Provincial Council of Women of Ontario can be found in appendix 4. The association is aware that many of the tenants' concerns were put forward in the council's 1990 brief. We have attached a copy of the resolution as appendix 4.1.

A summary in appendix 3 outlines actions through the year with respect to concerns of the tenants, and these include meetings with the interministerial committee. We express at this time concern that the committee report has not been available to the association and other communities.

A number of the issues put forward to this committee and in submissions to other government committees have been addressed in the additions and amendments to the various acts under Bill 21. We are hopeful they will be seriously considered by this committee and enacted into law, a first step towards dealing with other issues put forward in response to Bill 21, the Land Lease Statute Law Amendment Act.

Our comments and recommendations to proposed additions and amendments to the Landlord and Tenant Act, the Rental Housing Protection Act and the Planning Act are covered on pages 1 to 5 of this brief.

In summary, item 1, page 1 concerns the expansion of part IV of the Landlord and Tenant Act to include the designation "land-lease community and land-lease community home." The redesignation of our community and homes, separate from "mobile home park and mobile home," has been a priority for many years. The designation "land-lease community and land-lease community home" is acceptable, as are the amendments and additions to the act.

We note that the association's preferred designation is "planned retirement community." However, we are aware that the landlord favours "adult lifestyle community," which, in a sense, with a combination of retirement communities, does set out what our communities are.

Item 2, page 1 concerns consent for sale. Subsection 125(3) of the Landlord and Tenant Act permits a tenancy agreement to include sale "subject to the consent of the landlord" and would require written reasons from the landlord if he does not consent to a sale.

The members of the Wilmot Creek Homeowners'

Association submit to you that a landlord should not have the right to say that a tenant cannot sell a house even if in written form he states the reason for the denial of the sale. We would recommend that subsection 125(3) of the act be rescinded.

Item 3, page 1 concerns the use of for-sale signs. The association members acknowledge that a right should exist for a tenant who wishes to sell to indicate this by the placing of a sign. However, the members voted against the placing of signs on Wilmot Creek properties. But notwithstanding this vote it is imperative, we think, that the houses that are listed for sale, if they don't put up for-sale signs, be shown as being for sale in the sales office of the landlord.

Item 4, page 2 concerns the right of first refusal. In the comments we have acknowledged that this right provides specific avenues for a landlord to retain the character of the community. An example is shown of the action when a house in Wilmot Creek is sold by a real estate agent. In such a case the tenant accepts an offer to purchase which is below fair market value and the landlord exercises his option and purchases the house. The landlord gives the tenant 5% less than the offered price and the tenant is still liable for the real estate agent fee.

Our members feel and recommend that there is a need to recognize the right of first refusal, but we do not think that a 5% reduction should be taken by the landlord. An administration fee of \$1,000 is suggested.

The comments in item 5, page 3 concern the proposal for the institution of a reserve fund, and as I noted earlier, we have heard that this may be a passé remark. It sets out the criteria for a reserve fund study. The association recommends that the committee reconsider the need to impose in law a reserve fund. As noted previously, Mr Wessinger has already reconsidered this.

With regard to exemptions and financial disclosure, on behalf of the members we urge that the committee include under the act a requirement for financial disclosure by the landlord, and on page 3 we note specific reasons for the request.

Page 4 covers the Rental Housing Protection Act. The association recommends that the committee accept the need for protection under the act for land-lease communities and land-lease community homes.

The Planning Act, on page 5: The association submits that the expansion of the act to include the community and home does not respond to the tenants' concern that section 41 of the act be amended to ensure adherence or better adherence to municipal standards for roads, sewers and lighting, and again we have stated reasons for this request.

On pages 6 and 7 we note issues that were not dealt with, and this is the need for prescribed leases and for the designation, in law, of a mode of assessment that does not include amenities in the structure value.

Also, we wish to advise you at this time that this committee, the Wilmot Creek Homeowners' Association, supports the brief that is to be presented by the Ontario Owned-Home Leased-Lot Federation. We were very involved with the Sandycove group in getting the feder-

ation started and we do commend to you that brief.

Gerry and myself ask for your consideration of the issues we bring forward, and we will attempt to respond to your questions.

**Mr Hans Daigeler (Nepean):** Thank you very much for coming before the committee. I presume you're aware that yesterday the owner—

**Mrs Hinkley:** That's right. We were here yesterday.

**Mr Daigeler:** —was here and spoke to the committee. Are you aware or do you feel that there have been any serious problems in your community that need legislative action?

**Mrs Hinkley:** Yes, and as I say, one of the things that we're most definite about is the need for financial disclosure. In the case of Wilmot Creek, Mr Rice, who was here yesterday, is the developer, the sales agent, the construction—he looks after everything, and we feel that there is the possibility of certain things being applied against our maintenance fees that would more rightly be under construction items.

We found, when we had the opportunity to review all the material that was being put forward with regard to this rent increase of which I've spoken, instances where we could question the fact that something was applied to maintenance that should have been applied to construction. So this is one reason we feel the need for financial disclosure.

**Mr Daigeler:** But wouldn't that already be covered? Of course, you could answer that or perhaps somebody else can. Wouldn't these kinds of disclosure requirements be covered under the Landlord and Tenant Act?

**Mrs Hinkley:** No, under the Landlord and Tenant Act there's no disclosure. We do get an audited statement some time in September of the year following the statement that we get, and what we have found in many cases is that when we go to the landlord to question the maintenance statement, of which there's a copy in this, we don't get answers.

So what we are suggesting under that is that consideration should be given to the residents who pay for the maintenance, that they have a right to be involved in the budget process even, because if we're not going to get any answers afterward, why can't we be involved? We do know that there are newer communities of our type where this action is taken; the people are involved. Gerry, you may want to add something there.

**Mr Gerry Whalen:** If you look at appendix 1 you'll see that we've included the Ridge Pine Park maintenance schedule and operating costs. One of the things that we questioned on that particular copy was that there seemed to be some duplication in terms of maintenance. If you go down, it says ground maintenance in the amount of \$93,000, and if you go down towards the bottom you'll see park maintenance at a cost of \$26,000. We asked about this—it seemed to me that the charges were duplicate—"What's the difference between ground maintenance and park maintenance?" We never did get a straight answer on that.

1020

As well, it says a cost of \$60,000 for automobiles that



they're charging as operating costs. We asked about that as well: "Are we supporting leasing of automobiles in the cost of the maintenance?"

Those are some of the questions that we've asked them. We've never gotten any answers to them.

**Mr Ted Arnott (Wellington):** I'm sorry I missed the first part of your presentation, but I want to thank you very much for coming in. I've had a chance to go over it briefly.

I have a general question for you. I understand, I think, where you're coming from on this, but what I don't understand is, if there are a number of residents who are having problems with the owner of the park in a general way, why it is they don't have the ability to move. They do have that ability, I think.

**Mrs Hinkley:** You mean have the right to move out of the park?

**Mr Arnott:** Yes.

**Mrs Hinkley:** Yes, some of them do. I will say that Wilmot Creek is a marvellous place to live. The people are wonderful. In spite of all the problems we have, I don't think you would find more than a few people who say, "I don't like living in Wilmot Creek." I think that is the reason that more people don't move out. Of course, it's the association board which has the authority from the community, 960, to deal with the landlord. In many cases they gripe a lot, but they depend on us and we do get some action.

This is a particular case where we feel it is very, very imperative that we have something to say, because as so many people say, we're paying for this, so why don't we know what's going on? If you just ask for a division of a certain cost, surely the landlord—and this has taken place over a year before. But people do move out, and probably within the next year there will be many, many more trying to move out because of the cost of the increase.

Can you respond to that, Gerry?

**Mr Whalen:** I think you've made your point very well. I might say that I think the connotation of that particular statement would not suggest that people can't move, although you might look at it at this particular time. The feeling in the park is that it's like a concentration camp, unfortunately. We're forced into certain things within the park, and the landlord has all of the power and we really don't have any.

I might add at this point, too, that we are presently trying to negotiate with the landlord on certain issues that obviously are not in Bill 21, but other issues within the park, and hopefully we'll get some dialogue and some response to the negotiations with the landlord one way or another.

**Mr Gordon Mills (Durham East):** Thank you, Ruth, and Mr Whalen, for being here today, because this has been a long battle. I've somehow seen today that we're turning the corner and tomorrow we'll see the light at the end of the tunnel. You should be commended for all your work and all your efforts at Wilmot Creek to bring about some changes to the situation that you find yourself in. I'm very pleased to have it on the record and I hope

everybody's listening, before they leave, that you represent 96% of the people who are tenants at Wilmot Creek or owners out of 1,000 residents.

In so far as the amendments go, there has been a lot of issue made about the amendments to this bill, and I can tell you that mainly they are housekeeping amendments that follow when a private member's bill is introduced, subject to some dotting of i's by the Minister of Housing. This is a red herring which says that we can't deal with this bill because we've got 27-odd amendments. You'll find, if you stay around, that the crux of this bill is changing maybe as many as only four or five real amendments and the rest are housekeeping. So I want to dispense with that red herring.

Also now, what I want to talk to you about is the petition. I know this petition contains almost 700 signatures from the folks in Wilmot Creek. I know that seniors went around that park in the most diabolical weather since the 1920s to gain these signatures. It's a pity there's not more of the opposition here, because I want to tell them something. These petitions, believe it or not, contain names of their very supporters of their parties. This isn't NDP ideology, that we're trying to ram through anti-landlord legislation. The people who signed this support your party, and your party too, Mr Chairman, and I want to bring that to your attention.

**The Chair (Mr Michael A. Brown):** Thank you, Mr Mills. Question?

**Mr Mills:** I wanted to bring that to their attention, Ruth, because I think they should recognize their commitment to your residents as well as I recognize my commitment to my constituents. I really get aggravated when I hear all these red herrings thrown about, "Well, we didn't have time to do this; we didn't have time to do this," and we know that this has been before.

Now, I want to ask you, because I have to ask a question to make this legal because the Chair will jump on me—

**The Chair:** You're already a minute over your time, Mr Mills.

**Mr Mills:** We had the owner of Ridge Pine Park here yesterday, and it would seem to me that you folks down there were living in Utopia, that there were no complaints and no concerns. I'm particularly annoyed to hear about this fee, that not only do you have to pay real-estate fees but you have to pay them a fee, so this really tops down your equity in your homes. Would you like to make a comment about how you feel that is being so absolutely unfair?

**Mrs Hinkley:** Well, we certainly think it's unfair because people go to the real-estate agent to make a sale. In many cases it's estate sales and they don't know that they can go through the company. But many of the residents will not go through the company because of their feelings against the company. Then, when they get an offer and have accepted that offer, making it formal, it has to go to the company, and at that time the company would exercise its option because the house is below market value and they would purchase it in order that they could fix it up and sell it again at market value, if it

needed fixing up. But if there was an offer for \$50,000 and the house was worth \$80,000, they would deduct from that \$50,000 the 5%, the 95% law that's in our leases. Then the resident, because the real estate agent has brought the offer forward, has to pay the real estate. So out of \$50,000, they're paying \$5,500 for the sale.

Now, we're saying that the company would have administration fees, and we suggest that an administration fee would be put forward rather than the landlord taking the percentage.

Mr Rice yesterday, as you said, made it sound like Utopia. Now, it is Utopia if you ignore the problems, because we have wonderful living down there. But you will recognize that there are problems when we have a rights and obligations committee which has just formed with a lawyer, and we're paying a lawyer to try to come to some agreement with Mr Rice.

For instance, we have a swimming pool. It's very small, and we feel that because the residents pay for the swimming pool, there should be two or three hours in the day when just the adults can be in without all the grandchildren. During the summer, you know, all the grandparents have the grandchildren. Mr Rice will not agree to this. As a result, there are problems every summer with the people taking their children in at any time, and the adults who pay for the use of the pool, Mr Conway, do not have the right to be in the pool when they want. They pay for it and don't have the right to use the pool, and Mr Rice will not agree to the tenants having a specific time for themselves.

**Mr Mills:** Thank you. I'm glad Mr Conway's here because I know he's going to support this legislation—

**The Chair:** Thank you, Mr Mills.

**Mr Mills:** —because a lot of these 700 names are Liberals.

**The Chair:** Probably most—no.

**Mr George Mammoliti (Yorkview):** Oh, Mr Chair. That was a slip, wasn't it?

**The Chair:** I lost it for a moment. Ruth, thank you very much for appearing this morning.

1030

#### ONTARIO OWNED-HOME LEASED-LOT FEDERATION

**Mrs Phyllis Baker:** Good morning, everyone. I would like to present the vice-chairman of the federation, Mr Jock Rodger. Jock and his wife own a home in Tecumseth Pines near Tottenham, Ontario.

We are pleased to be able to be here this morning to present some comments and a lot of questions. I will just preface my brief by saying that when the bill was presented in the House, Mr Wessenger, I felt that it was only the beginning.

The 11 member associations of the Ontario Owned-Home Leased-Lot Federation welcome this opportunity to comment on Bill 21, the Land Lease Statute Law Amendment Act, 1993. The federation members met on September 21 to discuss the proposals contained in Bill 21—and I hope you understand that we're looking at a broad spectrum of communities here—to determine if all or if any of our concerns previously submitted to members of

the Legislature over a period of several years had been addressed. We are pleased to say that some matters have been specifically addressed, and these will be noted. Requests for clarification in wording and/or intent and questions will also be forthcoming.

The amendments to the Landlord and Tenant Act: The terms "land-lease community" and "land-lease community home" are acceptable and considered to be a forward step. However, preference is still generally for the designation "planned retirement community" for persons aged 55 and over. We realize, Mr Chairman, that the act does not only apply to retirement communities.

We accept section 125, the amendment that "A landlord shall not withhold the consent referred to in subsection (3) without giving written reasons to the tenant whose right to sell, lease or otherwise part with his or her mobile home...." We accept that.

Right of first refusal: We had a lot of discussion on that, and the consensus finally was that owners of homes in a land-lease community have the option to use the services of a real-estate agency if they wish or sign an agreement of sale with their landlord to sell privately. Mrs Hinkley has already gone over this in great detail.

When an agreement of sale is submitted by the vendor to the landlord for approval, according to the lease, the landlord should have the right to prohibit the sale if the offer is below market value. We feel that when homes are being sold below market value, it affects everyone.

Most leases have the following provision: "That when a bona fide offer is made, the tenant shall grant to the landlord the prior right to purchase the said dwelling on the same terms and conditions in the said offer except that the purchase price shall be 95% of the purchase price contained in the offer." We have no further comments on that at this time.

For-sale signs: The federation did not request this section 125.2(1) but decided after a lively discussion not to dispute its inclusion. It was agreed that for-sale signs could be a right.

We had a lot of discussion on the reserve funds, and I will comment on part of that when we are talking about the Planning Act. I think the one that really hit most of the members was maintaining roads in a good state of repair. On that section you have, "You are advised that the building of roads in a land-lease community is done under the provisions of a site plan and is one of the most contentious issues related to wear and tear and maintenance." I think this issue has come up at every meeting I have attended over the last six or seven years.

We feel that the establishment of a reserve fund or fund for the purposes stated is acceptable in some cases, but we have a question: Will this cause an additional financial burden on the owners of the land-lease homes? How is this going to be financed by the landlords? We believe that regulations pertaining to these clauses should be very clear and precise.

Under the Planning Act, the inclusion "land-lease community home" is acceptable. We are concerned that land-lease communities and land-lease homes built under the provisions of a site plan will continue to cause



problems for the residents because municipal standards have not been in effect.

Expanding the application of the site plan control area provisions of the act to sites for three or more land-lease community homes is acceptable provided that the municipalities require that roads, drainage and lighting conform to standards.

Under the Rental Housing Protection Act, the proposed changes are acceptable, but we feel will require further study by members of the federation.

Since all of our concerns have not been addressed in Bill 21, we will continue to ask for the following: That all agreements of purchase and sale list separate values and costs for: the cost of the house, including all extras; premium for use of common facilities, if any; premium for a location within the community. In some communities purchasers paid an additional fee for the location within the community and also established a prescribed form of lease with renewal option.

Closing comments: We believe that planned retirement communities called land-lease communities are an acceptable form of housing for persons over the age of 55.

Some communities have been in existence for over 20 years. You will be hearing from Sandycove Acres, a retirement community near Stroud established for over 20 years.

There are other communities that started as seasonal trailer parks and have evolved into retirement and/or family, non-seasonal, land-lease communities.

Unfortunately, over the years, the concept of this type of housing has not been fully understood by local municipalities and the government. If comprehensive legislation had been in place, we would possibly not now be undergoing as many problems and difficulties at the present time. These range from poorly planned site plans, improper drainage, poorly designed and maintained roads, poor management practices, lack of financial disclosure, assessments, rent controls and others.

Constituents of these communities have informed the members of the current and past legislatures of ongoing problem areas.

The Ontario Owned-Home Leased-Lot Federation was started in 1988—it actually became an entity in 1988, but much work had been done prior to this—as a means of coordinating resources, human and monetary, in an efforts to obtain comprehensive legislation pertaining to land-lease communities.

Since that time, the federation has submitted briefs and has met with government representatives to inform them of the problems that exist in some areas. We have also pointed out the positive aspects of living in these communities.

We were hopeful that the interministerial committee struck by the Liberal government, continued by the present government, would finally submit a report that could be used as a guideline. We realize that reports of this nature are internal documents, but ask, will it ever be completed?

Financial security for all persons concerned, home

buyers and owners, landlords and developers, must be of prime importance, and efforts should be made so that the equity in the home is secure.

Recently, the honourable members Elaine Ziemba, Ruth Grier and Tony Silipo stressed the importance of wellness, community wellness services and supportive housing.

If seniors are to live in a safe, secure and supportive environment, every attempt should be made to make that environment as stress-free as possible. We believe that communication between all parties is of vital importance. Landlords/developers should be open to dialogue from owners of land-lease homes, home owner associations and the federation.

Members of governments at all levels should realize that if land-lease communities are to continue to be an important form of housing, they should make every attempt to assist by drafting appropriate legislation.

I wish to thank those members of the House who over the past three and a half years have listened to members of retirement communities and the federation, and I omitted it here, but I would add the members of the previous government who also assisted.

We sincerely hope that the enactment of Bill 21 will in some measure result in a broader understanding of the concept and operation of planned retirement communities.

I want to end on a personal note. I would like to thank Gord Mills, MPP, Durham East, who is my member, for his help and advice.

This report is respectfully submitted, Mr Chairman. John and I would be very happy to answer questions.

**1040**

**Mr Arnott:** Thank you, Mrs Baker, for your presentation. I totally agree with many of the comments you've made in your presentation, especially that land-lease communities are a very acceptable form of housing for seniors, as well as, I would argue, others. Three or four years ago, we had an affordable housing problem in Ontario and I thought that more emphasis on this would have alleviated the affordable housing problem to some extent. I think you're absolutely right as well that seniors have a right to live as stress-free as possible. I think that's where you're coming from on this bill.

I understand yesterday there were 27 amendments put forward by Mr Wessenger, who is promoting this bill. Have you had a chance to review those amendments?

**Mrs Baker:** No. I haven't seen them. You said it's important, that you feel this is a good form of housing, but the way it's going, it's not going to be a good form of housing for anyone. I'm sorry to say that, but it's the truth.

**Mr Arnott:** If the current trends continue.

**Mrs Baker:** If the current trends continue. It's not really affordable for a lot of people any more with the situation. From where Mr Rodger and I are sitting, there's far too much confrontation now between individual home owner associations and their landlords. This is a concern.

**Mr Arnott:** Are there many homes for sale in the park that you live in right now?

**Mrs Baker:** I have no idea.

**Mr Arnott:** More so than there were a couple of years ago?

**Mrs Baker:** Oh, more than there were, yes, but I couldn't tell you.

**Mr Arnott:** Would you relate that to the problems that are occurring right now, that more people are wanting to sell and leave?

**Mrs Baker:** Possibly.

**Mr John Rodger:** Yes, I would say so. We have several people moving out for financial reasons, and in the odd case they have sold at a lower-than-desirable price, lower I think than the market value. So I think a certain degree of hardship is being pushed on to these people at a critical time in their lives too.

Remember, some of these people are getting up into their 80s, and in their mental state and physical state, they're not in too good shape to argue against the landlords. I know in one particular case in our development, Tec Park, there was no disagreement with the landlord, but this lady just gave up and sold the house at a loss and has regretted it ever since.

**Mr Paul Wessinger (Simcoe Centre):** Thank you very much for your presentation. It seems on some of the issues there may be an agreement. The Ontario Land Lease Federation was here yesterday and made a presentation with respect to some of the issues you've raised. I would like to just run through some of its suggestions.

First of all, with respect to the question of signs, they object in many cases to a for-sale sign being on the lawn in the land-lease community. A suggestion as to an alternative method of signage would be to restrict the sign to the mobile home and also provide a central bulletin board where people could put the information with respect to the sale of their home on the central bulletin board which would be available to all persons. Do you think that would be an acceptable alternative?

**Mrs Baker:** To most of the members of the federation, no for-sale signs definitely, period. We felt there could be a right, but most of the federation members were very much against that clause.

**Mr Wessinger:** So the suggested alternative would be more acceptable?

**Mrs Baker:** Personally?

**Mr Wessinger:** Yes.

**Mrs Baker:** No, but I can't speak for everybody in the federation.

**Mr Wessinger:** Personally no, but do you think maybe to the members of the association it would be?

**Mrs Baker:** I don't think it would be acceptable. Jock, do you want to comment on that?

**Mr Rodger:** We have a notice board at our community centre or recreation centre which lists all the houses and is updated by the landlord. It gives the addresses, and usually it's the tenant's prerogative whether to publish the asking price or not. Then the people are at liberty to go and see the house or arrange to see the house. We did have permission from the landlord to put signs of 8½ by 11 in the windows. Some of them from real estate agents

have become much larger than that and they just look like—I don't agree with that at all; a small sign, yes, but not the large ones in the window.

**Mr Wessinger:** The next point that was raised is with respect to the first right of refusal. As you know, my bill renders it void, but we've tendered an amendment which again was I believe endorsed—well, I don't know whether it was endorsed, but I think a lot of presenters for owners seemed to be quite prepared to accept it; that is, first right of refusal would be permitted provided first of all that the owners had to exercise their first right of refusal within 72 hours, and it had to be on the same terms and conditions with no price discount. That again was by the Ontario Land Lease Federation, which represents the owners. They were agreeable to having no discounted price. So I think that would be an improvement to the existing situation.

The last point is just a point of information. There will be amendments. I will be voting against the reserve fund provision, because I think at the present time it is too problematic to proceed with.

**Mrs Baker:** The way it's drafted, it's kind of complicated.

**Mr Wessinger:** In the present economic climate and with these other considerations.

**Mrs Baker:** That's why I asked that question.

**Mr Wessinger:** Right. Thank you very much again for presenting.

**Mr Sean G. Conway (Renfrew North):** I'm just interested to hear the last exchange from Mr Wessinger. You're planning to vote against the amendments. Do we know in whose name the amendments now stand?

**Mr Wessinger:** No, Mr Conway. The bill contains provisions with respect to a reserve fund.

**Mr Conway:** I know that.

**Mr Wessinger:** I will not be voting against the amendments, but the reserve fund will be deleted, I assume. That will depend of course on the vote of the committee, but as far as I'm concerned, I'll be recommending that the reserve fund be deleted.

**Mr Conway:** I appreciate that clarification, Paul.

Mrs Baker, thank you very much for quite a good submission. Again, I suppose I have more an observation than a question. It's clear from your very helpful presentation that there are obvious problems and I'm quite sympathetic to the points you've made. You've struck I think a very good balance in raising the concerns and the issues. Mrs Marland, Mr Arnott's colleague from Mississauga, is not here today—not here yet, at any rate—but she made very effectively the point over the last couple of days about the need to balance the various interests of people in this situation.

The committee has heard some horror stories from tenants in mobile home parks. My colleague Mrs Fawcett has a situation down in the very eastern portion of her electoral district near Trenton that is just indescribable, the conduct of a bad cat that none of us I think is very happy about.

On the other hand, we've had a whole host of oper-



ators saying, "If you do some of this stuff, you're really going to put an end to our involvement and our viability," and without people to invest in these often mom-and-pop operations, they're just not going to be there.

One of the points you've raised is this business about the interministerial committee that was at work in the late 1980s which many others have commented about as well, because it never really did see the light of day. I must say my inclination is to favour government legislation that goes through a regular channel, that brings everybody together so that we have a very good canvass of all the various points of view.

Mr Wessenger has advanced a bill that intends well, but clearly a lot of people don't feel that they know what's going on. They have not been consulted. There does seem to be some concern that what we're trying to do here is pull pieces of existing legislation together to address a very special set of circumstances in mobile home parks and land-lease communities. I take it your view is that something has to be done, and if nothing comprehensive is done, this bill should be favoured.

**Mrs Baker:** It's better than nothing. I have said all along, and the federation feels that way, that it's a beginning. We were hopeful, when this was all discussed that this was coming, we would have something quite specific pertaining to our type of home. I realize some of the problems that exist, because like I said in the brief, some of these parks have evolved from trailer parks and they've grown like Topsy.

**The Chair:** Thank you for appearing today.

1050

ROY ROBICHAUD  
HOWARD CREIGHTON

**Mr Roy Robichaud:** We have a short presentation concerning our eviction from Lonesome Pine Park. My name is Roy Robichaud. With me is my friend Howard Creighton; also my wife, Ruth, and my daughter-in-law, Elaine.

On October 7, 1992, eviction notices were given to the whole park. The reason: a court order arranged between the town of Innisfil and Alex Shakell, owner of the mobile home park. Mr Shakell implied that a court order stipulated that the town ordered that he obtain vacant possession of the park in order to upgrade that park. He claimed then that he was given no choice in the matter.

This was a complete fabrication on the part of the landlord. The truth of the matter was that the town had worked out an arrangement that would allow the residents of the park to remain while the work was being done. It was the owner's request that the order stipulate that the residents be removed. The potential benefits to the landlord were:

(1) Vacant possession would break the rent cycle and upon completion of the renovations would allow him to set new rents at a level of his discretion.

(2) Replace the present residents' homes with new ones and obtain commissions from the mobile home vendors for allowing them on the property.

The residents of the 28 mobile homes were approximately 65 people, the majority of whom was composed

of senior citizens. These were or are our homes. The notice he served was incorrect, not even properly served and did not allow the time of 120 days prescribed by law to vacate. The only value in this was that of intimidation, and to this end it did intimidate all but five remaining residents to vacate. They have sold these homes for a fraction of their value, ie, 20%, gone bankrupt or simply walked away from them with nothing. A group lawsuit and several individual lawsuits are in progress.

After one year a court decision overturned the evictions, stating that as we were not made party to the court order we were not required to abide by it. This was only the beginning of an extremely expensive legal recourse which has brought to light excessive rent, hydro and tax charges to this point.

In conclusion, Mr Shakell, to further his financial interests and greed, decided to throw the old tenants out and bring in new ones to pay for the upgrading of his park. He advised us that he was sorry for us and he had prayed for us, but there was nothing that he could or would do to help or compensate us.

The status of the park as of January 21, or as of today: Of the 28 original residents' homes, five still reside and the upgrading of the park has not begun. The remaining residents have been served with further eviction notices and are contesting them.

This was an unconscionable act to suggest that a group of hardworking people and senior citizens lose everything with no chance to rebuild or restructure their retirement years.

This bill in progress will protect mobile home owners from being victimized and, as well, it will police landlords. They will be unable to force whole communities into financial ruin when they have to spend thousands of dollars in legal fees just to protect their interests. We thank you for listening.

**The Chair:** Thank you. We will have questions, but before I start I just want to make clear to the members of the committee that asking questions that relate to ongoing court proceedings is not proper. Being the Chair, I don't know what those proceedings might be, so the presenters may have to tell the members that they're intruding into grounds they shouldn't be in. I should also remind the presenters that while the committee enjoys parliamentary immunity while here, your comments are on record and could conceivably be used in a court action.

**Mr Wessenger:** Thank you, Roy, for coming today. In case the members don't know, Lonesome Pine Park is in the town of Innisfil which is in my riding, and this will give you some indication of my concern with respect to the whole question of the Rental Housing Protection Act. It's a similar situation to the Trenton park—very much similar.

**Mr Mammoliti:** You don't need to justify, Paul.

**Mr Wessenger:** Right. What perhaps I'd like you to indicate to the members is, you make the point about the cost and the financial loss to tenants, and I'd like you to give some idea of what the financial losses would be for the average person who was a resident and how it occurred.

**Mr Robichaud:** The average selling price for these places onsite, on their location, would go from \$80,000, which is the high, to maybe \$28,000 or \$25,000, which is the low. In my case, I purchased my property for about \$37,000, and I've upgraded steadily over a period of five years. If I were to remove my mobile home from its site, I might get \$4,000 for it. On the other hand, if I can't find a buyer, I might get nothing. Mr Creighton's is a little better. He could explain his a little more to you.

**Mr Howard Creighton:** My mobile home, I even argue the point that it's classed as a mobile home; I argue that it's basically a single modular home. The purpose of the wheels under it is to get it from the factory to the site. Once it's on the site, you haven't got a hope in Henry of moving that thing. It's a permanent structure. I paid \$60,000 for this mobile. You can't just go and take out a loan like I do with my trucks and say, "In four years I'll pay this back." You have to put a mortgage on these things.

Then you come upon a situation like this, where you have to fight the guy. Myself personally, I'll fight to the end. I've spent \$25,000 fighting this sucker, and I intend to keep on going, because what he's doing is very illegal, and I think it's very fraudulent. Just because some guy wants to rent out his property for you to use, there should be some protection that he can't just come in one day and say, "Okay, you're history." I've got a lot of money invested, it's costing me a lot of money, and as things stand right now, there's nothing there to protect us. There's nothing at all. This guy can come in and do whatever he wants; it's his property.

This bill is showing some promise that we're going to have a leg to stand on, that this guy is going to have to go back and re-evaluate what he's doing and do it the proper way and find out that he can't just come in and disrupt a person's life because he wants to make more money. We were put in there so that Mr Shakell can make a few bucks renting his property. Now he's come up with a scheme where he figures if he can get everybody off the property, this is breaking the rent cycle. He doesn't want to move you from point A to point B on the property; he wants you right out on Yonge Street, right off his property so that he can do the park the way the town wants him to. Then he can bring in all new mobiles or double modulars that I hear are going to be coming in there. He figures he can charge big bucks. So it was just basically through greed that he brought us in there and greed that he's throwing us out, and we haven't got a leg to stand on.

**Mr Conway:** You scared me; not since Roy McMurtry threatened us with sub judice.

**Mrs Joan M. Fawcett (Northumberland):** Thank you very much for coming forward. I certainly am embroiled in a similar thing in my riding, and I wonder if there are any relations there at all.

**Mr Creighton:** I think the Black Donnellys.

**Mrs Fawcett:** Do you have a tenants' association?

**Mr Creighton:** The five of us that are left are it.

**Mrs Fawcett:** Was there one previously?

**Mr Robichaud:** No, there wasn't really one.

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**Mrs Fawcett:** So there was never an association that met regularly with the owner to discuss problems.

**Mr Robichaud:** We're the more recent residents of the park. This has been an ongoing problem which a lot of us weren't even aware of when we bought these places, or obviously we wouldn't have bought them. But, no, we don't have an association. There was one back in the 1980s that worked through a legal case involving the township and Mr Shakell and themselves.

**Mrs Fawcett:** So it seems like there might have been one, but only when there was a real problem that you had to deal with, rather than something where you work together with the owner to make a good situation.

**Mr Robichaud:** The final result of that was that the units as they stood there then, in 1987 I believe, were found to be legal non-conforming, so the landlord went back his merry way and continued to do business and sell new lots on the property. To the best of my knowledge, he was not even supposed to do that. Quite frankly, from what I understand of the situation, he should not have permitted the sale of my place, me buying the place from the previous owner, unless I took it off the property. That's the way I understand it now, but he sanctioned the sale then.

**Mrs Fawcett:** You feel that Bill 21 as it is now, the bill that you know, will help your situation. Of course, you know, then, that a lot of what is there in Bill 21 isn't going to be there, we don't think, with all the amendments.

**Mr Creighton:** There are parts in this bill that—I couldn't just place where they are in there, but there are going to be some things that he's going to have to basically work along with us. Even as far as the sale of the properties goes, the way it stands up there now and previously was if you wanted to sell your mobile, you basically had to sell it to Alex Shakell or somebody whom he sanctioned. Let's say for argument's sake you sold that place for \$50,000. You had to give Alex Shakell \$5,000, 10% of the selling price, just for his blessing that you can sell your property.

**Mrs Fawcett:** And you didn't understand that at the beginning when you moved in.

**Mr Creighton:** No, none of this stuff.

**Mr Chris Stockwell (Etobicoke West):** Can I just ask a couple of questions about when you bought. You claim that you have to get a mortgage on this.

**Mr Creighton:** Yes.

**Mr Stockwell:** Did you not have to show clear title to the bank to get the mortgage?

**Mr Creighton:** The way they—

**Mr Stockwell:** Oh, you didn't go to the bank.

**Mr Creighton:** Oh, yes. The way they set this deal up, I know—I'm not stupid—that mobile homes, you can't just put them on any corner in town.

**Mr Stockwell:** No, I understand, and he was legal non-conforming.

**Mr Creighton:** I didn't even know anything about any of this stuff when I bought this. I went to Armstrong



Trailers in Richmond Hill. This is where I bought it. You know the place in Oak Ridges?

**Mr Stockwell:** No, I don't.

**Mr Creighton:** All right, but anyway, right on the bill of sale I had them put down that unless I had an approved place to put this mobile, then I wasn't going to buy it. There's no sense me putting out this kind of money if I can't put it anywhere.

**Mr Stockwell:** Right, I understand.

**Mr Creighton:** They set up the deal. They told me to go up and see Alex Shakell and they set up the deal.

**Mr Stockwell:** But you got a mortgage, you're saying.

**Mr Creighton:** Yes.

**Mr Stockwell:** And you got a mortgage on—what did you register the mortgage against?

**Mr Robichaud:** Howard, was it a mortgage or a consumer loan?

**Mr Stockwell:** You got a consumer loan?

**Mr Robichaud:** I don't know. I'm just asking Howard.

**Mr Creighton:** I don't know what they call it.

**Mr Robichaud:** Is it a consumer loan or a mortgage? There is a difference. I think that's what this gentleman is trying to point out.

**Mr Creighton:** What you have to do is go to the bank, borrow the money and pay the mobile off.

**Mr Stockwell:** Okay, so you got a loan.

**Mr Creighton:** I got a loan from the bank, but they put it through like a mortgage.

**Mr Stockwell:** The next question is, your lawyer who closed this deal for you—I assume you had a lawyer.

**Mr Creighton:** No.

**Mr Stockwell:** You didn't have a lawyer.

**Mr Creighton:** No.

**Mr Stockwell:** You placed the unit on the land, signed the agreement.

**Mr Creighton:** I bought this mobile on the stipulation that they could find me a spot to put this mobile.

**Mr Stockwell:** Did you sign an agreement, though, with Mr Shakell, to place the unit on his property?

**Mr Creighton:** No, but you didn't have to sign an agreement with him to put it on there, as long as he got his kickback from Armstrong Trailers.

**Mr Stockwell:** So you signed nothing.

**Mr Creighton:** No. As long as he got his money from Armstrong Trailers, the deal was that they—

**Mr Stockwell:** So, in reality, basically you got a straightforward consumer loan to buy the unit, you went and placed it on his property and you didn't sign any agreement, or rental agreement?

**Mr Creighton:** No. You couldn't even get a lease out of him.

**Mr Stockwell:** You couldn't get anything?

**Mr Creighton:** No. The way Alex Shakell put it, and I'm a firm believer in a handshake—

**Mr Stockwell:** Not any more, though, I bet.

**Mr Creighton:** I don't trust my brother any more. We sat at his kitchen table, the wife and I, and we talked. I asked him about a long-term lease and that, and he said: "Mr Creighton, I already said you don't need a lease. As long as you pay the rent, abide by the rules, keep your nose clean, you can stay as long as you want." We shook hands on it.

**Mr Robichaud:** Let me make a point about the lease.

**Mr Stockwell:** Did you have a lease?

**Mr Robichaud:** No. What good is a one- or two-year lease on a property like that? A 10-, 15-, 20-year lease is something reasonable. One or two years is worth nothing.

**Mr Stockwell:** I agree with that. Nobody had a lease.

**Mr Robichaud:** No, there was no lease. The park had been in existence for something like 20 years.

**Mr Stockwell:** And there wasn't a lawyer involved; you didn't have a lawyer.

**Mr Robichaud:** I had a lawyer involved. He checked for liens and so on and so forth.

**Mr Stockwell:** That was it?

**Mr Robichaud:** That was it.

**Mr Stockwell:** Did he advise you to get some kind of lease?

**Mr Robichaud:** No.

**Mr Stockwell:** He didn't.

**Mr Robichaud:** No. We admit we were gullible; we admit that.

**Mr Stockwell:** No, I'm not suggesting that. I didn't say that at all. Obviously hindsight's 20/20. I was curious. You mentioned a mortgage. I thought that if there's a mortgage you have to show title and so on, and there would have been a search and so on, but there wasn't.

**Mr Robichaud:** Possibly, when Bill 21 comes into effect certain amendments will be made to bring this in line so it will be necessary for all parties to be fully aware.

**Mr Stockwell:** Have you seen the 27 amendments?

**Mr Robichaud:** I have read it over once. I have not studied it; I intend to.

**Mr Stockwell:** Okay.

**The Chair:** Thank you very much for appearing before the committee this morning. We like to hear people come down from your area and tell us directly about your experience.

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#### LONDON AND AREA TENANT FEDERATION

**The Chair:** The next presentation is the London and Area Tenant Federation.

**Mr Leo Bouillon:** Good morning. My name is Leo Bouillon. I'm the executive director of the London and Area Tenant Federation. In my capacity as a representative of a provincial-wide organization called United Tenants of Ontario, all calls related to trailer parks are directed to our office in London.

Over the past year we have received calls from Grand Bend, Strathroy, Rodney, Windsor, Sudbury, Hanmer,

Barrie, Thunder Bay and Fort Frances.

In our area of London-Middlesex there have been three tenant associations formed to assist tenants within these trailer parks. In most cases the problem is obvious: Tenants are not aware of their rights.

Before going into detail, I should point out that in our findings, there is an association of trailer parks which boasts a membership of 350 province-wide. This would seem to explain the similarity of rules and regulations presented to tenants. These findings were based on newspaper articles and calls from Toronto concerning the trailer park association.

Issues brought forward by tenants in trailer parks in this area are: an attempt by a landlord—and I stress by the landlord—to convert the property himself to co-op; threatened evictions for smoking on campgrounds; overcharging on taxes; threatened loss of trailer because the landlord owes back taxes; and additional fees for an extra person occupying a trailer over three people.

Those who wish to live in trailers or trailer parks should be able to enjoy their investment and not have to worry about their landlords who try to impose archaic rules and think themselves omnipotent. Tenants need to be educated as to their rights concerning these and other problems. The landlord has offered his land or trailer park; therefore, he is legally bound to meet certain standards.

I have seen several parks that are exceptional in that tenants participate in social clubs, the clubhouse being supplied by members and encouraged by the landlord. Therefore, I would suggest that if landlords would cooperate with tenants and supply what they are charging for, their relationship would be much more satisfying.

I cannot emphasize enough the importance of Bill 21. The Landlord and Tenant Act is not clear enough. Bill 21 spells out exactly what the trailer park is and expands the legitimacy of a trailer park and more stability to those wishing to live in trailer parks.

There has been a surge of people going to these areas over the past several years. People find it relaxing getting away from the cities, and others need to relocate due to significant increases in housing. For whatever reason people choose this lifestyle, I implore you to closely examine the impact this proposed legislation will have for those already in trailer parks and for the future of others.

**The Vice-Chair:** Are you complete?

**Mr Bouillon:** Yes, that's it.

**Mr Conway:** I just want to thank you very much, Mr Bouillon, for your presentation. You mention in the second paragraph of your brief that over the past year you've received a number of calls from Grand Bend, Strathroy, Windsor, Thunder Bay, Fort Frances, among others. Do I take it from that that the number of complaints about land-lease and mobile home park-type setups is increasing, as far as you can judge?

**Mr Bouillon:** Yes, and I think the fact that people know they can call us has increased the number of people calling. Again, one of the things that seems to come up most often—

**Mr Conway:** I should ask, by the way: Just how long have you been in business in your capacity? How long has the London and Area Tenant Federation—it's been around some time, I take it?

**Mr Bouillon:** We're into our second year. We're fairly new, but I belong to United Tenants of Ontario now. It's been two and a half years. As I was just pointing out, one of the main concerns from callers seems to be that, again, they don't know what their rights are. Leases are a thing of the past. A lot of people don't even realize that or have never signed a lease: maintenance, deterioration of property. Once the park itself may be started—a number of years ago it started out with good intentions and then the landlords just neglected to keep up the property.

**Mr Conway:** I believe you were in the audience when the previous group was here talking about Lonesome Pine, I think it is.

**Mr Bouillon:** Yes.

**Mr Conway:** Are those situations fairly typical, from what you have heard?

**Mr Bouillon:** It's quite common. Again, the calls that we're getting are pretty well similar in that people are complaining they've got nowhere to go and they're at the landlord's mercy.

**Mr Arnott:** Thank you very much for your presentation. I have a question relating to a presentation that's come to the committee from a constituent of mine, Don Vallery, who is the owner of Pine Meadows Retirement Community, and I would recommend to all the committee members that they take a look at it. He says:

"In summary, this piece of legislation has obviously been created by a small group of tenants and bureaucrats that are clearly more for the rights of tenants than for the landlords and are operating without total understanding of all the issues and implications. If this bill passes without major changes, the result will be deteriorating parks and communities and will lead to slum conditions being created. If a landlord cannot make a reasonable profit, why bother?"

"The landlord owns the land, not the tenant, and should have the right to operate his business as he sees fit. If a tenant is not happy at a park or community, they can always sell."

How do you respond to that sort of comment?

**Mr Bouillon:** That is a very typical statement, very common. It's always used. "If you don't like it, move." And as the previous gentlemen said, some of these mobile homes you can't just pick up and move. These are structures that are permanent. Like I said, it's very, very typical of the answer that is actually given to tenants.

The parks are deteriorating now, so I don't know why they're complaining that if this legislation were to come through, it would make it even worse.

**Mr Arnott:** Not all parks are deteriorating, though.

**Mr Bouillon:** No, no.

**Mr Arnott:** And I can tell you, having canvassed through this at election time, it's beautiful; it's absolutely beautiful, this park.



**Mr Bouillon:** I've made mention here that I have seen trailer parks that are exceptional. That's true; they're not all bad. But for those that are having the problems, it's a very real problem. It's a nightmare. Again, the added bonus to the landlord, "Well, if you don't like it, move it." What's the tenant supposed to do?

Right now, I just received a fax late last night from a tenant who is being evicted for forming a tenant association. This poor lady's having a heck of a time. There are some very serious problems and concerns out there.

**Mr Arnott:** Have you had a chance to study the 27 amendments that were introduced yesterday?

**Mr Bouillon:** No, I haven't, unfortunately.

**Mr Mills:** Thank you, Mr Bouillon, for being here this morning to make that presentation.

I happen to sit in the Legislature next to the member for Middlesex, Irene Mathysen, who unfortunately is on another committee and can't be here today. I can tell you that she has a very great interest in Bill 21. I sit next to her and over the past year or so we've discussed the horror stories of the places in hell in Middlesex, what the folks have to put up with, similar to my friends here from Stroud.

My question, to counteract the question from Mr Arnott, is that you're the executive director of the London and Area Tenant Federation. Would you say, in honesty, that those memberships represent the broad political spectrum, ie, you've got Conservatives there, you've got Liberals and you've got NDPers, I presume.

**Mr Bouillon:** Oh, definitely.

**Interjection:** And Reform.

**Mr Mills:** And Reformers. Why I asked you that is I think this bill, Bill 21—somehow people have got some ideology that this is NDP stuff against landlords and I want to make it very clear to this committee that this is a non-partisan bill. It's protecting the rights, and it protects the rights equally, of Conservatives and of Liberals.

I hope that they listen and they support Bill 21, because I hear all these red herrings about amendments and I can tell you that they're just red herrings. The amendments that are succinct to this bill are very few but they are obviously—and my colleague the member for Northumberland had a horror story here yesterday of great proportions. How anyone can question the validity of this bill or the requirement for this bill after hearing those sort of questions, astounds me.

**Mrs Fawcett:** Because I want the bill to help.

**Mr Mills:** This gentleman here is saying that Bill 21—let me get this right—this gentleman is saying, "I cannot emphasize enough the importance of Bill 21." This is a man on the ground, I cannot emphasize it and he says it spells out exactly what a trailer park is.

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**Mrs Fawcett:** Which bill? The bill we've got now or the bill it's going to be?

**Mr Mills:** So I'm urging everybody to support Bill 21 and let's move on from there. Thank you, sir, for coming here today.

**Mr Bouillon:** As a matter of fact, when I do talk to tenants and mention that there is proposed Bill 21, they're ecstatic. So I'll just point that out.

**The Vice-Chair:** Thank you very much for appearing before the committee. We appreciate your presentation.

SANDYCOVE ACRES HOME OWNERS' ASSOCIATION

**Mrs Dorothy Lea:** My name is Dorothy Lea. I'm acting president of the Sandycove Acres Home Owners' Association, which is in Mr Wessenger's riding. Mr Paul Burkholder is my support member.

Thank you for the opportunity to present our comments and concerns related to Bill 21, the Land Lease Statute Law Amendment Act, 1993.

Our presentation will include three sections and a brief summary. Section 1, background considerations to provide context; section 2, specific comments and/or recommendations regarding the content of Bill 21 as drafted; section 3, general overall concerns and problem areas that have not been addressed in Bill 21 that we believe warrant and require legislative attention; and section 4, summary.

Section 1: Background. Our association represents the residents/home owners in the largest and longest-established land-lease community, to use Bill 21 terminology, in the province. Established in 1971, this community has grown to 1,165 homes, soon to be 1,186, and a population of approximately 2,100, almost all of whom are retired or semi-retired seniors. There are some owners who have been here over 20 years. Our association has an active membership representing over 900 homes.

Using landlord-provided common facilities, our residents/home owners have developed and operate a wide range of social, cultural and recreational activities and programs contributing to and actually constituting the lifestyle that makes the community a success.

The owners/developers of this park have extensive land development and commercial operations in this area and elsewhere in the province, including two other land-lease communities: Wilmot Creek and Grand Cove Estates.

While our residents/home owners appreciate and enjoy the lifestyle they have helped create, there have been over the years a variety of differences of opinion and points of stress and disagreement between us, as residents/home owners, and the landlord owners/developers.

The genesis of Bill 21 is a House resolution in 1987 by the then member from this riding, and Bill 21 itself was introduced by the current member from this riding, Paul Wessenger, Simcoe Centre. We are founding members and active supporters of the Ontario Owned-Home Leased-Lot Federation and endorse their brief, being presented separately.

Both directly and through this federation, we have had numerous contacts with and submissions to various ministries, committees and the interministerial committee appointed to review this whole legislative area, and we are deeply disappointed that the report of the interministerial committee has been withheld from us who are so directly concerned.

Please note that this submission relates only to the sections of Bill 21 that would impact our land-lease

community. While we appreciate that there is a clear legislative need to deal also with mobile home parks, we are really not in a position to speak to the specific issues involved.

Section 2: Specific comments and recommendations of draft Bill 21.

(a) Amendments to the Landlord and Tenant Act: While we are very disappointed that completely new, exclusive legislation is not proposed for land-lease communities akin to the Condominium Act, we do applaud and support the establishment of this category as recognition that they are indeed a distinct type of housing arrangement. We note the growth in recent years, despite the legislative handicap, and suggest that future demographics would lead to expanded, continuing demand.

We also support the proposed requirement on the landlord to provide written reasons for refusal to consent to sale or other disposition of a land-lease community home. Actually, we believe this concept should be expanded to rule out the continuing liability of the vendor of a home, on assignment of a lease, as now contained as small print in many leases. Surely the value of the home involved provides the landlord with adequate security for the land lease, without keeping the original lessee as contingently responsible.

With respect to the proposed invalidation of the normal lease-agreement-imposed first right of refusal as it applies to land-lease communities, we have mixed feelings. In these land-lease communities, a community interest culture has evolved, and while human rights considerations preclude establishing direct exclusions, we believe that this first right of refusal does provide a mechanism where a landlord, who may well have community maintenance as motivation, can act to avoid a sale to a party that clearly might be disruptive to this culture. We see it as a sort of safety valve. Many of the lease agreements currently in use, however, provide for a discount on the purchase where the landlord exercises this first right of refusal. This clearly is an unfair provision that should be prohibited.

As well, we believe that the residents/home owners should be provided in the legislation with a similar first right of refusal should the landlord contemplate sale of the property or be faced with bankruptcy. These concerns would require that amendments to the act make provisions for land-lease communities that may be different from those for mobile home parks.

Similarly, the proposal to give tenants the right to place for-sale signs is not one of the areas that has been of concern to us. Normal turnover of homes in our community has been in the order of 10% to 12% per year, and with the current resale market slow, there are currently more than 10% of the homes for sale; in our case, well over 100. A forest of signs would clearly not be desirable and our association would discourage their use. Again, while we cannot assess the application of this to mobile home parks, we do not believe this prohibition should be extended to land-lease communities.

The concept of reserve funds for property maintenance and operation is not an area that has been causing us concern. We are aware, of course, of some situations in

land-lease communities where the proposed system would have value in bringing such costs into the open and assuring that they are adequately provided for, so the concept may well be warranted.

Originally, our park operating and maintenance expenses and a variety of other expenses were organized as a pass-through charge. Although this system seemed reasonable as a principle, it was a constant source of conflict and concerns due to the vital need for an audit process, the absence of mechanisms to ensure effectiveness and efficiency, and that for accounting purposes, it included quite heavy soft costs. For example, 1992 mortgage and loan interest was \$579,264, and management fees were \$166,427. The various rent control statutes folded these costs into the rent figure, and should rent control ultimately end, we now believe it preferable to have this all-inclusive rent concept continue.

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To us, then, the long-term problem is maintenance standards and their adequacy, and the reserve fund concept really doesn't speak to this at a meaningful level. It will not be clear until the operational regulations under the reserve fund proposal are issued what the specific effects on our situation will be. We assume our landlord will be exempt, because a statement of expense is currently issued as a requirement of many of our leases, and some of us, as a result of a litigation settlement, receive audited statements. We conclude that the "sure cure" for our problems in this area would be a standardized form of lease for land-lease communities, as outlined in part 3 of this brief following.

(b) Amendments to the Planning Act: We fully endorse the Bill 21 provisions that would bring land-lease communities under site plan control, that now are in our municipality, and also the provision requiring individual site registration for new land-lease communities. Requiring existing land-lease communities to be registered by individual sites would be an advantage to us, but we realize that this would impose substantial, probably unjustifiable, costs on the landlord.

(c) Amendments to the Rental Housing Protection Act: While we realize that this section of Bill 21 may be of great significance to some mobile home communities, often established on land in transition, we do not see it having relevance to our specific situation.

Section 3: General concerns and problem areas. Over the last several years, in our contacts with the inter-ministerial committee and with various ministries and MPPs, we have identified a number of legislative problem areas. Some of these would be encompassed by Bill 21 provisions, although as noted earlier, we really would have much preferred separate, exclusive legislation applicable to land-lease communities only. These unresolved legislative problem areas not included within the scope of Bill 21 will continue.

The following here is a listing, with brief explanatory notes, of the areas we believe have yet to be addressed.

(a) Prescribed lease form: Our landlord is currently using his eighth version of his standard lease form, originally adapted from a commercial space lease. These



leases have become progressively more favourable to the landlord with each revision. Many of the early 1970s leases are expiring, and the captive market of these tenants is faced with stepping into a much less favourable contract. Many so caught are following our advice to carry on without a lease while we, as their representatives, attempt to negotiate a more balanced contract.

In these negotiations, it is absolutely clear that the landlord has little motivation or desire to accept a less preferential lease format, and after two years, little real progress has been achieved. This is most unsatisfactory, but month-to-month lease extension is the only lever we have in these negotiations. Without exception, independent lawyers advise against signing even earlier lease versions, distorting the free market value of resale homes. It is a tribute to the market attractiveness of the lifestyle involved that some purchasers proceed, often without specific legal advice.

We believe that this warrants a mandatory, reasonably balanced standard lease format. See our comments concerning the maintenance standards under the discussion of reserve funds in part 2 of this brief above.

(b) Require that sales transactions separate the values for (1) the home and improvements, (2), the premium for access to the common facilities, namely the lifestyle, and (3) the premium for site size or location. Such separations and values would clarify matters for purchasers as well as rationalize a variety of questions related to assessment and maintenance of common areas by the landlord.

(c) Require enhanced standards, appropriate to the population of seniors, for health and safety-related facilities and services; for example, safe facilities for pedestrians.

(d) Require some form of tenant participation in capital budget planning once a land-lease community is functioning as such.

(e) Require condominium-style disclosure provisions and a cooling-off period for purchasers.

(f) Require municipal tax abatement for services not provided; for example, garbage collection.

(g) Maintain consumer protection strategies such as new home warranties, Landlord and Tenant Act protection etc.

Our summary: We applaud and endorse the Bill 21 initiative that would recognize land-lease communities as a specific housing category, and the control proposed on landlord refusal to consent to resales. For this latter item, we think it could be improved by also eliminating contingent responsibility after a resale lease assignment.

On the proposed elimination of the first right of refusal and the question of for-sale signs, we have mixed feelings. On the former, we actually would welcome a tenant first-right-of-refusal provision.

The proposed reserve funds concept does not seem to resolve the problems we have experienced, although we recognize that there are land-lease communities where it would be a clear step forward. We believe a mandatory lease format structure could be a more effective approach in this area.

Finally, while we do recognize Bill 21 as a desirable step forward, there are a number of significant other areas of concern that we feel require legislative attention, and ultimately we would like to see all-encompassing, specific legislation for land-lease communities on the pattern of the Condominium Act.

On behalf of Sandycove Acres Home Owners' Association, we wish to thank you for your attention.

**Mrs Margaret Marland (Mississauga South):** I congratulate you on your presentation. It's very comprehensive and very constructive, which we appreciate.

It's rather ironic, really, that we don't have legislation for land-lease communities, because there are so many similarities to condominiums, and of course we're in the middle, for about five years now, of trying to get a new Condominium Act, because it needed improvement. But it's like anything when it's introduced: It has to be revised through experience, and I think that's what we're dealing with in this subject, because it's a new type of living environment.

I'm not sure from your comments whether you would accept for-sale signs in the windows of buildings.

**Mrs Lea:** We would prefer not to. Mr Wessinger indicated earlier about perhaps notices on bulletin boards. The only problem there is, we have three large recreation centres as well as an administration office in order to cover the total park.

**Mrs Marland:** But the administration office might work okay, might it not?

**Mrs Lea:** Yes. They have a separate sales office.

**Mrs Marland:** Yes. You know that the reserve funds, according to what Mr Wessinger tells us, are out anyway.

**Mrs Lea:** No. We're not aware of these 27 amendments. We haven't been given the opportunity to read these amendments.

**Mrs Marland:** That's what's making this hearing such a farce, because you're in here making comments on legislation that you don't—

**Mr Mills:** Come on. It's a red herring, and you know it.

**Mrs Marland:** Excuse me. You're asked to comment on a bill and, really, you don't know what the bill is going to be that you're asked to comment on because of the changes in it.

**Mrs Lea:** Well, we were asked to comment on that which was there at the time, and that's what we've done.

**Mrs Marland:** That's right. I know, because that's all you could do.

**Mr Wessinger:** Thank you very much for appearing, Dorothy. I certainly have appreciated you and Paul and the assistance you've given with respect to this bill, and I appreciate your support for it. Perhaps I'll take this opportunity just to explain that most of the amendments to the bill are of a technical nature. I will just outline some of the substantial ones. There are four or five substantial amendments.

The first one that has been put forward is to change the proposal with respect to first rights of refusal. Now, first rights of refusal will be allowed, but they must be at

the same price and the same terms and conditions as the offer received, and there are 72 hours in which the owner has to accept that. So that amendment will be put forward by myself. That's the first substantial amendment.

**The Chair:** You won't have time to explain—

**Mr Wessenger:** No, I just thought I'd explain there were four or five. The other one will relate to signs.

**Mr Mills:** They keep throwing this red herring at us. They keep tossing it out.

**Mr Wessenger:** Yes, I think it needs correcting, what has been put forward by Ms Marland.

The second one will relate to signs. We haven't quite determined how the final of that one will be, but there will be an amendment there. The other substantial amendment we're going to bring is, we're going to make the bill apply to unorganized territories; and the last one, we're going to include infrastructure under the bill. Those are the four substantial amendments. We're also deleting reserve funds, I should indicate. That's not an amendment; that will just be voted down.

**Mrs Marland:** Oh, I see. It's going to be voted down.

**Mr Mills:** It's all a red herring.

**Mr Wessenger:** So those are the substantial amendments that I will be bringing.

**Mrs Marland:** So it's all cooked, ready to go, right?  
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**The Chair:** Thank you. Mr Daigeler.

**Mrs Marland:** It's not a cooked bill?

**Mr Mammoliti:** Margaret, that's enough.

**The Chair:** Mr Daigeler has the floor.

**Mr Daigeler:** At this point no amendments have been introduced, and certainly normally there's a vote. We'll see what happens. We'll see whether we will come to the clause-by-clause, but I do think this has been—

*Interjections.*

**The Chair:** Mr Mills and Mr Arnott, this is not helpful to the people who have come to speak to us.

**Mrs Marland:** You talked to these people. Why don't you talk to the whole province?

**Mr Mills:** We have.

**Mrs Marland:** You have not.

**Mr Mills:** I sent it out in my newsletter. I don't know what you people do.

**Mrs Marland:** We didn't even know about it.

**Mr Mammoliti:** Can you reprimand her?

**Mr Mills:** Come on. You were in the House when it was introduced. I sent it out in my newsletter.

**The Chair:** I can take a recess, if you'd like. Carry on, Mr Daigeler.

**Mr Daigeler:** Frankly, I've learned quite a bit over the hearings, and in that regard I'm thankful. I certainly know more about it than I ever knew before. I'm not sure whether I wanted to know all of this. In any case, I do have a park in my own riding as well.

What I still don't understand, frankly, is that difference between—what is the proper name now?

**Mrs Lea:** Land-lease communities.

**Mr Daigeler:** —land-lease communities and the mobile home parks. Sometimes a distinction is made, sometimes not. How would you see the difference?

**Mrs Lea:** The difference is quite noticeable in that up in Sandycove Acres, I would say one third of the homes are site-built homes, meaning they're structured right on that property, or they are modular homes and modular homes are permanently on steel pillars. They're there for ever and a day. They come in on flatbed trucks, the modular-type homes, they're erected on site on steel pillars. Everything then is confined to that particular home. As I say, the others are site-built homes, cement block foundations, and partitioned homes are built right there and then, permanently on that piece of property.

**Mr Daigeler:** What's the difference of that then from normal housing?

**Mrs Lea:** None.

**The Chair:** Thank you, Mr Daigeler. You can pursue this later, I'm sure, in clause-by-clause. Thank you for coming this morning. You were most helpful.

*Interjection.*

**Mrs Marland:** Thank you for that comment.

*Interjection.*

**The Chair:** Order.

**Mr Mammoliti:** Can we repeat the comments on a mike, perhaps? I wanted to know who that was. I wanted to know what he said.

**The Chair:** As you would know, Mr Mammoliti, and all committee members and, for that matter, everyone in the room, interjections are always out of order by members, but they are impossible to be made by members of the general public who are here. There is a way, always, of getting things on record. The person can ask and be a deputant to the committee and he can therefore make a presentation, as many others have done.

**Mr Mills:** I think it's indicative of the frustration of the people. That was the president of Wilmot Creek.

**Mr Mammoliti:** What did he say?

**Mr Mills:** He's choked up about it.

**Mrs Marland:** Frustration with the government is what he said.

**Mr Mills:** No, no.

**The Chair:** Order. Do we want to take a recess or do we want to continue the hearings?

**Mrs Marland:** Let's continue.

PETERBOROUGH COMMUNITY LEGAL CENTRE

**Ms Martha Macfie:** First of all, I'd like to thank the committee for providing us with this opportunity to make oral submissions on Bill 21. I represent the Peterborough Community Legal Centre. The legal centre is one of more than 20 community legal clinics across the province. We provide free legal advice and representation to low-income tenants in Peterborough county.

Since it opened in early 1989, many of the tenants the clinic has assisted have been rural tenants. I think that's because of the nature of Peterborough county itself. In fact, one of the first tenants that the clinic helped was a



tenant of a local mobile home park known as the Lakehead Trailer Park. The clinic has successfully represented mobile home park tenants on an ongoing basis and on a number of issues since 1989. I'll just recap a couple of those issues where we were successful.

On one case, the district court of Ontario found that the mobile home park and other provisions of the Landlord and Tenant Act applied to our client's tenancy where the park was open full-time May to October and on the weekends during the balance of the year and where our client had no other residence in Canada.

In another instance, on appeal by the landlord to the Divisional Court, the court held that the landlord could not use the representative actions provisions of the Landlord and Tenant Act to name all of the tenants in one court application in an attempt to terminate all of the tenancies. The landlord brought a motion for leave to appeal before the Ontario Court of Appeal and lost at that level.

In another case, a rent review administrator for the Ministry of Housing found that the Residential Rent Regulation Act applied to our clients, who were residents of a mobile home park. Most recently, in a case just this fall, the Ontario Court (General Division) found that the owners of a mobile home trailer park had failed to meet their repair and maintenance obligations under the Landlord and Tenant Act and on an interim basis, an emergency basis, ordered the landlord to provide vital services and on a final basis ordered repair and maintenance, as well as general damages, punitive damages and abatement of rent. So we've had some involvement with tenants of mobile home parks.

On initially reviewing Bill 21, we intended to speak primarily on the non-seasonal issue. I understand that the proposed amendments, hopefully, address our concerns. So late yesterday I realized that the presentation I had planned to make today probably was unnecessary. I phoned Mr Wessinger's office and was able to get a copy of the proposed amendments.

What I'd like to do is deal specifically then with the issue of reserve funds, because I understand that they've now been dropped from the legislation. I'd also like to say at this point that I don't feel I've had enough opportunity to prepare a presentation respecting reserve funds and I would appreciate either an opportunity to come back before committee or some additional time to prepare written submissions on this point.

I'd like, first of all, to start by saying that the legal centre and the tenants we represent support the idea of a legislated reserve fund for all tenancies. I'm not just talking about mobile home parks or land-lease communities; I'm talking about reserve funds for all tenancies. We represent low-income tenants. These are tenants who have been shunted off to the least—well, it's supposedly affordable accommodation, but in most instances it is the least adequate. It is inadequate housing. For these people, for our clients, maintenance standards and repair standards are critical, and reserve funds for all tenants is one way of addressing this issue.

I could tell the committee about clients of mine who have not been in mobile home parks; I could also tell

them about clients in similar situations in mobile home parks who have been basically shipped around from slum landlord to slum landlord in the city of Peterborough and, despite court applications, there has been virtually no meaningful success for them in getting a landlord to adequately repair and maintain a premises.

It is submitted to this committee that the reserve provisions would essentially lend some teeth to what is now section 94 of the Landlord and Tenant Act, which deals with repair and maintenance, and section 128, which deals with repair and maintenance in mobile home parks.

As I've indicated, many of the tenants who contact us live in rural communities. These tenants have unique characteristics to other tenants across this province, in particular to urban tenants. These tenants are constantly facing a problem of a scarce supply of housing and, in particular with respect to mobile home tenants, there is a scarce supply of housing or lots for these particular tenants. Most rural tenants, particularly mobile home park tenants, are low income. Many are seniors who have put their life savings into their mobile home. Finally, most mobile homes are difficult or impossible to move. So those are some unique characteristics of the tenant group we deal with.

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For many low-income people, the idea of moving into a mobile home park seems great on the surface. It gives them an opportunity to feel like they have a sense of ownership over something, that they can make a difference and that they have some control over their accommodation. But in fact, as we've found out in Peterborough, tenants in mobile home parks do not always have good maintenance standards and good repair. The landlords often fall down in those areas.

To illustrate the point, I'll just tell you a little bit about the Lakehead Trailer Park. In the early 1980s, the tenants purchased, by way of long-term leases, lots and they moved their own trailers or mobile homes on to these lots. The tenants paid \$10,000 up front, and the lease provided that they would continue to pay monthly maintenance fees. The maintenance fees were to be based on previous years' audited maintenance expenditures.

In about mid-1980s, 1987, around there, the park was sold to some fairly unscrupulous types and the previous owner took back a mortgage. Of course, there was a default on the mortgage and just this past winter we've seen the original owners take back the park. In that intervening period, between about 1987 to just this past winter, the park has fallen apart, basically. The new owners refused to do any repair and maintenance in the park. I think their goal from the outset was to gradually evict the tenants so that they could have the property, so they attempted to use very unsavoury ways and means of getting rid of the tenants. Fortunately for most of the tenants, there was a strong tenants' association and they were able to hang in there, but for some of the tenants, they were forced off. They lost their life savings.

What happened during that period of time as well was that the tenants quit paying their maintenance charges because there was no maintenance or repair happening in

the park. This past winter the park reverted back to the original owners. Those owners essentially carried on the reign of terror. Come May 5, when the park was to open, there were no vital services. There was no water, there was no hydro, there were no sewage services, and this is in a park that is now basically in an extremely dilapidated state.

We were able to obtain, I believe it was in June, an interim order requiring the landlord to provide the vital services. We could not get a court date until mid-October in order to get a final order from the court saying that all of the repairs and maintenance had to be done. Basically, we've got tenants who should have moved in on May 5 continued on to around the end of October, who didn't have the use of their park, their homes, for that six-month period of time. It still remains to be seen whether or not the landlord is going to actually do the repairs that it's been ordered to do.

We submit that a reserve fund in the facts of the case that I've just told you about would have helped, particularly a reserve fund that would be transferred from owner to owner, particularly a reserve fund that is integrated with the rent control legislation, and by that I mean properly integrated so that if a landlord is not living up to its obligations with respect to a reserve fund, there would be penalties imposed in terms of above-guideline increases under the rent control legislation. We submit that it would be possible to phase in a reserve fund that would not prove to be too onerous on landlords but that would prove to be of immense benefit to tenants in mobile home parks across the province.

Those are my submissions. As I indicated earlier, I would greatly appreciate an opportunity for more time to prepare written submissions on this point. I did not intend to speak on reserve funds today—I intended to speak about the problem with the definition of “non-seasonal mobile home”—and I would greatly appreciate more time to prepare written submissions on reserve funds.

**Mr Wessinger:** Thank you very much for bringing us your expertise in dealing with tenant problems. You did indicate a large number of problems with respect to attempted termination of tenancies. Is that in more than one park in your area?

**Ms Macfie:** Yes, it certainly was. At three separate parks in our area the landlords have used various ways and means: cutting off vital services, compelling or forcing tenants—we've heard about it from some previous speakers—to sign new leases that impose greater restrictions on the tenants and greatly reduce their rights. There have been, nothing specifically proven, but certainly allegations of landlords going in and vandalizing property. It's been pretty horrific for the tenants in these parks around Peterborough.

**Mr Wessinger:** Your experience is, then, that there are many difficult landlords in this area.

**Ms Macfie:** Yes.

**Mr Wessinger:** Did you encounter from time to time difficulties with respect to landlords trying to restrict or limit the sale or transfer of owners' homes as well?

**Ms Macfie:** Yes, that has been an ongoing problem

and I would hope that Bill 21 addresses some of the problems in that area. I've just had a chance to review the proposed amendments briefly and I think the proposed amendments will help. Bill 21, as proposed to be amended, will help some of our clients.

**Mr Daigeler:** How do you think Bill 21, in the amended form, will actually be an improvement over the current situation? From what you're describing, there is a legal remedy available. It may not be working as fast as it should, but I'm not really convinced, from what I've seen or heard so far, that Bill 21 will significantly improve that situation. Where do you really see a dramatic change through Bill 21 to some of the problems that you have identified?

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**Ms Macfie:** I think the legislation will make it clearer as to who is covered and who isn't covered. It will clearly bring a large group of people under the Landlord and Tenant Act and other legislation. I would have hoped that the reserve fund provisions in particular would help in terms of the repair and maintenance problems, simply because if they were incorporated and connected with the rent control legislation, there would be basically an enforcement mechanism there. I think it's important because there's a lot of uncertainty right now as to who exactly is covered right now by the Landlord and Tenant Act, and I think Bill 21 clarifies that.

**Mr Daigeler:** This is difficult, because we haven't had a briefing from the ministry, but it's my understanding that they're covered by the LTA. What they are not covered under is the Residential Housing Protection Act.

**Ms Macfie:** Yes.

**Mr Daigeler:** That's new, but under the Landlord and Tenant Act they're already covered.

**Ms Macfie:** It's not absolutely certain. Under the Landlord and Tenant Act, you go to court, you show the judge the indicia, you prove basically that you are a tenant and that you are entitled to protection under the act. In the facts of the case that we talked to the district court, that was a six-month tenancy. The landlord was saying, “This is a member of the travelling and vacationing public; this is not a tenant who deserves protection under the Landlord and Tenant Act.” This legislation makes that a lot clearer.

**Mrs Marland:** Ms Macfie, are you a lawyer?

**Ms Macfie:** Yes, I am.

**Mrs Marland:** Is your clinic funded by government?

**Ms Macfie:** Yes, we are; indirectly.

**Mrs Marland:** Yes. The program is funded by the government.

**Ms Macfie:** The funding comes from the Ministry of the Attorney General, is channelled through our funder, clinic funding, and the funds disbursed to the individual clinics. My employer is a volunteer board of directors at the clinic.

**Mrs Marland:** Right. I appreciated your honesty and your openness when you said you had no time to prepare for a discussion on the reserve funds and that you received the amendments yesterday and you would have



liked more time to prepare to comment on what the amended bill would be. That's the point that I've been making for two days now, and I appreciated you coming here and saying that, because that's the whole essence of what we're dealing with. I can appreciate your frustration.

Do I sense that most of the cases you've given have been in—you referred to the Lakehead Trailer Park as one of the worst examples, and certainly a horrible example it is. Are most of them mobile homes or trailer parks, or have you represented tenants in land-lease communities of the retirement community, the new concept that we also have heard from?

**Ms Macfie:** I believe most of the ones that we've dealt with, and possibly all, have been mobile home parks.

**Mrs Marland:** Do you think from your experience that we should direct the government to develop legislation that deals with each of them, with their own specific needs separately, because there are different needs and there are different conditions in a mobile home park as compared to a land-lease retirement community?

**Ms Macfie:** Well, legal clinics across the province have for a long time been advocating for reform of the Landlord and Tenant Act. I personally would like to see one package of legislation. It would be easier for us, as clinic lawyers, and for tenant advocates to deal with one piece of legislation that hopefully is accessible in terms of its language and in terms of the procedures that are used under the legislation that is accessible to our clients.

So I like the idea of this coming about as an amendment to the Landlord and Tenant Act. Of course, there are further amendments to the Landlord and Tenant Act that I'd like to see as well.

**Mrs Marland:** When the Lakehead Trailer Park—

**The Chair:** Thank you, Mrs Marland. We appreciate your—

**Mrs Marland:** You do; thank you.

**The Chair:** Yes, we appreciate it very much. Thank you for coming today.

**Ms Macfie:** I had asked for further time in filing written submissions, and I was wondering if, to prepare, you could—

**The Chair:** The clause-by-clause is scheduled to start at 3 o'clock this afternoon, but certainly the committee always accepts submissions. I'm just the messenger here.

**Ms Macfie:** When does that clause-by-clause review conclude?

**The Chair:** When it concludes, I guess, is the best answer I can give you.

**Ms Macfie:** Okay. Thank you very much.

**The Chair:** We will be in recess until 2 o'clock this afternoon.

*The committee recessed from 1207 to 1400.*

**The Chair:** The standing committee on general government will come to order. The purpose of the committee meeting is to listen to public depositions with regard to Bill 21, An Act to amend certain Acts with respect to Land Leases.

CONNIE FLEMMING  
CAROLYN CROWE

**The Chair:** Our first presentation this afternoon is Tall Trees trailer park. Good afternoon.

**Mrs Connie Flemming:** Good afternoon.

**The Chair:** The committee has allocated 20 minutes for your presentation. You may use that time as you wish. You should begin by introducing yourselves for the purposes of Hansard, your position within the organization, and then you may begin.

**Mrs Flemming:** This is Carolyn Crowe, and my name is Connie Flemming. We're from Tall Trees Mobile Home Park in Barrie. We've come to give a little bit of an understanding of what it's like to live in a mobile home park. We both live in the mobile home park—

**Mrs Carolyn Crowe:** We're both owners of mobile homes.

**Mrs Flemming:** —and own a mobile home. We all got together and we all kind of basically wrote something that everyone could understand. This is our opinion of the situation that we have gone through.

First, the days of believing that mobile homes and their inhabitants are in some way inferior are long gone. This perception was brought by some backward-thinking people who had no understanding of the situation. It is a truly affordable form of housing.

Why should young people starting out in the housing market be forced, if they can even accumulate a large down payment, to buy a large home that does not fit their beginning needs, or the senior citizens who have maintained a large home and raised their families and are now looking for a more compact way of living which will allow them to own a small area they can call their own, other than some concrete apartment building which some of the residents, mainly senior citizens and younger people, cannot afford.

The regulations put forth in Bill 21 are necessary and way overdue and are needed to end the unjust treatment of mobile home owners. As I said, we are here today to represent Tall Trees Mobile Home Park but, more important, to provide a brief history of what happens to a mobile home park community when there is a lack of basic provision in the law to protect them.

When we and other families invested and purchased our units, we were led to believe that the landlord at that time was in the process of drafting a 10-year lease, which we also had sat down and helped him draft, and that an expansion was being implemented. However, within a few months of taking possession—and some of us hadn't even yet moved into our mobile homes which he had sold to us—a general meeting was called and we were informed that the land had been sold. When the deal closed, we all received eviction notices from the new owner. These eviction notices were to be the first of many.

At this time we had a mixture of retired couples and young working families, many of whom had been living there for years. As you can well imagine, the stress and uncertainty of our futures was enormous on all of us, but it was the elderly who suffered the most, as was evident

by one of our neighbours having a heart attack and the other one having a disabling stroke.

We all desperately searched in vain for some assistance and/or answers from the previous owner or the owner now. It was apparent early that the new owner was not interested in the park, and for-sale signs soon appeared on the property. However, he was unable to sell, so he offered to let us stay on. He tried to illegally increase our monthly rent by over 200% in one shot, which we ended up going to the rent review board with. We continued to fight and were successful in defeating this large increase.

Then we began to receive eviction notices like flyers for any reason whatsoever, whatever he could think of. Many of the seniors were intimidated by these tactics and gave in, using most of their remaining savings, their retirement funds, to have their mobiles moved hundreds of miles away from their families and the situation, or even from the place that they loved to live in, and that's if they were fortunate enough to find an opening in another park and be accepted.

It was a very sad time for all of us. Some tenants received eviction notices due to lack of proper formal notice from the landlord regarding taxes which were then due within three to four weeks after those notices were given. Being late with the rent cheque just one or two days was due to the fact that the superintendents could not be located, yet another eviction notice was received. Then another notice was received, this time because the landlord wanted the land cleared to develop and all the time the land remained and still remains up for sale today. Needless to say, the time commitment for these notices has come and gone but not without the home owners having to endure more stress and uncertainty.

I will not continue with this particular aspect as I'm sure you'll understand. Suffice it to say that this form of harassment and intimidation still continues today.

The next step was ambivalence on the owner's part, as was evidenced by the deterioration of our roads and surrounding landscape. We have photographs here which can be circulated around to anyone who would like to see them. For instance, we have a large glass-enclosed pool and it's now shut up with boards because the glass has been shattered. It has glass panels on the top and the sides and a foot of algae-infested stagnant water lying in it. By the way, we had proposed to the landlord that if he would just open it up and allow us the use of the pool we would maintain it, but the owner was not interested and it was not to his advantage.

Many amenities which were included in our rent when we purchased were simply taken away one by one until there were only the very basic services. We had the pool, we had a children's playground, we had shuffleboard, we had quite a few amenities and right now all we have is—and when it came to maintenance things all we have is the superintendent now doing the very basic things for us, like fixing the road, and what else?

**Mr Stephen Owens (Scarborough Centre):** That's fixing the road.

**Mrs Crowe:** Yes, that's fixing the road.

**Mrs Flemming:** Yes, and we have to beg.

**Mr Owens:** Must be non-union workers. Any unionized worker wouldn't do a job like this.

**The Chair:** You'll have your opportunity later.

**Mrs Marland:** It flows along quite nicely without the interjections.

**Mr Owens:** Thank you for that sage advice, Margaret.

**The Chair:** The deputants have the floor.

**Mrs Flemming:** Along that note, there are a lot of horror stories that we could tell you, as you'll see with the photographs: being stuck in the mud up to your car's bumpers trying to simply drive out of your park, or even if we did go up to the superintendents and explain to them that the road did need to be fixed, we had a lot of verbal harassment from those superintendents.

Our park and all the families remaining have been forced to live in limbo since this nightmare began in 1989. For almost five years we have endured, not knowing our fate nor having any recourse to follow. Along with that, the city had to step in to enforce bylaws that were not being met by the owner.

For instance, we had to have them come in to have obnoxious weeds cut down. We had to have health inspectors come in because there was raw sewage spilling out of the adjacent lots. We had to have them come in to get rid of the garbage because we have children in the park and it's a very dangerous situation for the children to be playing in the park. We had an open trench that was waist-deep. I went in it and we had to have them come to fill that in. We had to have them come to cut down dead trees which were falling on our mobile homes, unfortunately. We had one right outside our bedroom window and we had asked many, many times for the owners to cut it down and we finally had to call the city in. That's the only way it seems that anything ever gets done.

No one should be forced to live like this. This is Canada and we shouldn't have to always beg to have something done, especially when it came to getting things done through the superintendents.

It is no longer reasonable to turn our backs on this situation. It must be brought to a speedy resolution. I believe that land owners who own and maintain mobile home parks can realize a profitable and very viable business enterprise. We need only look to our neighbours to the south and west, all over the place, to see that mobile home owners, landlords and municipalities can live in harmony and all can mutually benefit from this form of alliance.

In conclusion, this bill is timely and essential. Tenants of apartment complexes have more protection than us, yet in most of our cases we have to invest a substantial amount, if not all, of our hard-earned savings into what we were led to understand would be a form of secure housing or a means of being able eventually to enter into a larger housing market as our needs changed.

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We have all the documentation, newspaper clippings of our plight, and photographs to back up all statements noted in this deposition. At this time we would like to take the opportunity, on behalf of the mobile-home owners of Ontario, to sincerely thank Mr Paul Wessinger



and his team, Simcoe Legal Services and our aldermen Dorian Parker-Ross, Dave Morrison and Sam Cancilla for working so hard to have the sense of vision to bring this overdue problem to light, and also the Ontario Legislature for fulfilling its mandate to protect all of the Ontario citizens whenever an unjust situation arises, such as the one before us all today.

In a nutshell, that's what we've been through. Just so you have an understanding, we have newspaper clippings. These are the eviction notices here of three families. There's a handful of them that we've received. We have all the documentation from the city. We have done everything that we can absolutely do to fight with the city—this is just more paper—everything that we can think of. We went through Mr Morrison, our alderman, to try to help us with our plight. We finally fought with city council. In the end, we haven't really come to a resolution. We're kind of locked into this. Obviously, we can't sell our homes because nobody's going to buy because of the situation that the land is up for sale. We're stuck there.

**Mrs Crowe:** I'd just like to add that during my plight, which isn't as long as Mrs Flemming's—at the young age of 21 my husband and I got married and bought a mobile home two weeks before our wedding and moved into this park with, unfortunately, a verbal five-year lease on the land, with the understanding that it was going to be expanded, they were going to reopen the pool, they were going to pave the roads. This beautiful scenario was painted for us and less than nine months later the owner gave us eviction notices.

Had we known there was no security in this park—we probably should have looked into a little more—we would never have bought a mobile home. We bought the mobile home because the company we bought it from was placing it on this lot, which we thought was a secure way, and at our age we could not afford a full-size home and didn't need a full-size home. Needless to say, nine months later we did get these eviction notices and we fought them.

Part of our problem stems from the fact that in Barrie the land that we are on, which is 27 acres, was not always in the city of Barrie. It was considered part of the township of Innisfil and was zoned for mobile homes and campgrounds. During some shifting around Barrie acquired this land and never zoned it. Therefore, what brought us into the city council and all the problems with it was that he was trying to get a zoning put on to the land. We didn't have a leg to stand on because the land wasn't zoned under the city of Barrie.

After some fighting with the landlord, we did get a semi-contract in that he agreed when he was ready to develop the land, the empty lot that was beside us, he would then give us eviction notices and would buy us out of our mobile homes, some of which have \$40,000 mortgages on them. If we didn't have that sort of protection behind us, we would end up paying for a mobile home, storing it somewhere, because the closest place we could find was Huntsville to place our mobile home, but then we wouldn't be able to work and we'd end up on the welfare system because there's no work in Huntsville.

This is the kind of situation that's all loopholes. You can't buy a lot within the city of Barrie or the township surrounding it without spending \$100,000 to ready the mobile home, so you might as well go out and buy a regular home. It's been very frustrating and turned some of us into very bitter people towards land owners and things that normally should be a happy situation. I really think the protection that Bill 21 would bring us is something that mobile home owners really need.

**Mrs Flemming:** We'd just all like to invite each and every one of you to come down and walk through our places and see that it's just a normal home and we take care of it like everyone else does out there. We all have yards and we take care of our yards. We have gardens just like a normal place.

**Mrs Crowe:** And dogs and kids.

**Mrs Flemming:** Yes, dogs and kids and everything else. It's really not a substandard-type of living that society today puts upon mobile home owners. If anyone has anything to add, I'll just let this float through and you can all take a look at this. We don't mind.

**The Chair:** The members would probably like to ask you some questions of clarification.

**Mrs Flemming:** Sure.

**Mr Daigeler:** Certainly the situation that you're describing is pretty drastic and dramatic and hopefully can be addressed. Because this is a private member's bill, we can't really ask the ministry officials whether Bill 21 will in fact be the solution to your problems, and that's just where I'm not really that sure, because you're describing a very complex legal, municipal, zoning, everything else—

**Mrs Crowe:** It is.

**Mr Daigeler:** —and frankly I'm afraid about that. I'm not sure at all that Bill 21 will in fact be that—

**Mrs Crowe:** I'm not sure it would be our total solution. Unfortunately, we didn't have a lot of time to prepare for this. In reading parts of the bill, I don't totally understand everything. The way it was partially explained to us is that it would allow us the protection of being able to sell our mobile home, because if we were to sell it on the lot where it sits right now, as soon as the ownership is transferred the land owner can evict the new owners because the land is rented to the person and not the mobile home, from the way I understand it.

It would give us that protection in that if we put up a for-sale sign, we would be comfortable in knowing that the new owners would at least have as much of a fighting chance as we do instead of being evicted. It has happened in our park where one mobile home was sold, the new tenants came from out west, not knowing anything about it. They had been here, bought the mobile home, went back home, and when they came back to move into the mobile home with their two kids and their dogs, they were given eviction notices. Of course they didn't leave; they had nowhere to go. The landlord continued to cut off their water, cut off their hydro, and went in and started to move the mobile home while the people were in it. I think that's the kind of protection we're looking for.

**Mrs Marland:** I think you need protection for that situation you've just described and I'd like to ask Mr Wessenger if his bill will remedy and give protection to the kind of example that's just been given.

**Mr Wessenger:** Yes, I'd be very happy to. By the way, thank you for appearing today. I appreciate your coming.

**Mrs Marland:** Just answer my question. It's my time. You'll get your time.

**Mr Owens:** I thought you were commenting on how smoothly things were going.

**Mr Wessenger:** The amendments to the Rental Housing Protection Act in effect will not allow the owner to close the park without the approval of the municipality. At the present time, as I understand your situation, the family that owned the park, and it was a well-run park—

**Mrs Marland:** No, excuse me, Mr Wessenger—

**Mr Wessenger:** You asked the question.

**Mrs Marland:** It's my question and it's not fair that he's starting into his diatribe about the bill in general. The example they gave and the protection they're looking for of this family who bought a home, a unit, and then the landlord turned around and said that although they owned it they had to move it—does this bill stop that?

**Mr Wessenger:** This bill will not allow a landlord to unilaterally terminate tenancies. At the present time, if the landlord sells the property to a developer for redevelopment or wants to convert the land to any other use, then upon four months' notice under the Landlord and Tenant Act at the present situation, all tenancies can be terminated.

My bill will bring them under the protection of the Rental Housing Protection Act, which means that the landlord will not have the ability under the Landlord and Tenant Act to unilaterally give that four-month notice and end the tenancy. So, yes, that will give them the security of tenure. In addition, of course, the rights with respect to first right of refusal and the right to have advertised their property for sale will benefit them and make their home more marketable.

*Interjection.*

**Mrs Marland:** No, I won't. Thank you for all the answers.

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**Mr Owens:** Thank you for your presentation. I represent the riding of Scarborough Centre, so in terms of the effect it will have on my local community, we don't have trailer parks in Scarborough. But I do have constituents—and I think everybody in the city knows somebody who owns a trailer. As well, in my role in reviewing the Co-operative Corporations Act, we ran across a couple of horror stories where property owners attempted to convert using that piece of legislation to avoid their obligations under the Landlord and Tenant Act, so I appreciate your comments.

You gave the committee a bit of a clue about the financial investment you're talking about. In terms of the property and the home itself, what kind of investment are

families asked to make, approximately, a range of some kind?

**Mrs Crowe:** My mobile home is probably one of the newest in the park. I bought it in 1990 and it's a 40-foot mobile home. It's not as mobile as the title makes it, but it cost me \$52,900 when I bought it, and that was without the land. That did include the first-year rental in the deal with the company that we bought the trailer from. The company paid the land owner \$10,000 to move us into this park and set us up for a year. After that year we had to incur the regular taxes, utilities. We do pay our own taxes on the mobile home, unlike when you rent. Your taxes might be tucked in there somewhere. We pay an outright \$700 on a 40-by-12-foot mobile home.

**Mrs Flemming:** Usually when there is a mobile home that is situated on a lot, it will go for anywhere from, I would say, \$25,000—that's an old mobile home—to, I'd say, very nice, newer mobile homes of \$65,000. You eventually pay your own heat, hydro, if you're on a well, propane. We're assessed by the city of Barrie, so we do pay our own taxes.

**Mr Owens:** We're not talking about an insignificant investment with respect to the family then. I appreciate that, and, again, I appreciate your thanks to Paul. As government caucus chair, I can tell you he's been strenuously lobbying on your behalf. This bill will give you a means to a remedy that you currently don't have with respect to protecting your investment and ensuring that your landlord and other landlords will live up to their obligations and not be able to toss you out.

**Mrs Flemming:** I'll just use us as an example: We purchased the mobile home at the end of August and we hadn't even moved in; the ink on the papers wasn't even dry yet. We had brought some boxes in and we learned that the land had been sold, because there was a little piece of paper stuck in our door saying that there was a general meeting that night. We hadn't even moved in. We put down \$10,000 on this and we spent \$30,000 on this mobile—

**Mr Owens:** Welcome to the neighbourhood.

**Mrs Flemming:** Yes, welcome to the neighbourhood. Then we had it up for sale. We had a buyer for it. In fact our real estate agent was going to come that day and later that afternoon we received an eviction notice. So we had to back out because I could not do that to someone else. I'm sorry, but I couldn't do that and live with myself, because that person had a family with two children. I couldn't do that to him and have him in the same boat as us.

**Mr Owens:** I appreciate your honesty.

**Mrs Crowe:** I just wanted to add something to your first question, Mr Owens, on the financial end of it as well. When mortgaging a mobile home, which I found, after the first year, does become very, very difficult, because it doesn't have the stability—we kind of killed ourselves in one way, because we went to the newspaper with our fight about the first eviction notices, therefore around town it was discovered that we had no lease on the land or anything.

To get a mortgage renewed or refinanced through any



bank in town was next to impossible. Actually, what I was told was they would amortize the chattel mortgage. You're looking at loans now where you can get a seven-year mortgage on a house for 7%. My mortgage rate for a five-year amortization at the bank is 13%.

**Mrs Flemming:** We all pay chattel mortgages.

**Mrs Crowe:** We pay chattel mortgages. We cannot get a regular mortgage on a house.

**Mr Owens:** It's highway robbery.

**Mrs Flemming:** Yes.

**Mrs Crowe:** Even if you own the land, you cannot get a normal mortgage on the house.

**Mrs Flemming:** You'd need at least 10% down. Each bank has its own stipulations on how much it wants down.

**Mr Owens:** You should write Paul Martin a letter and tell him the banks are ripping off the people.

**Mrs Crowe:** But they would amortize the loan over the length of your lease, so if you had a month lease, you had a month-long amortization on your mortgage.

**Mr Owens:** And a \$5-million-a-month mortgage payment.

**Mrs Crowe:** Hey, no problem.

**The Chair:** Thank you for coming today. You've been most helpful to the committee.

KEITH DAVIDSON

**Mr Keith Davidson:** Good afternoon. My name's Keith Davidson. I'm from Hamilton, Ontario. For about the last 15 years I've been using one specific trailer park outside of Hamilton in Cayuga, Ontario. It was only the last three years that I was what they call a full-time tenant, like a seasonal camper, where I actually went from a period of June 1 until Thanksgiving. That's what they classify as seasonal camping.

Unlike the situation in the last presentation, this is not a mobile park; it's a trailer park, where all the trailers are set on sites and used for six months. You lease the land and the services of the park for a six-month period. What I'm going to read is just a general outline of what I've gone through over the last five years. This involves not only police and lawyers but the bureaucracy of the Ontario government to look into this situation.

The recent proposed changes to the land-lease legislation are a step forward, but they exclude a large sector of persons who should be covered. Persons who rent land for mobile homes and seasonal trailers should not be excluded. Approximately 400,000 residents of Ontario are in this position and have no protection in law. It is possible to be evicted at a moment's notice for just asking why the rent is going up.

These persons contribute millions of dollars to local economies and contribute millions in tourist dollars, yet they have no rights or protection. As an example, a family of four in a trailer park in a small town in southern Ontario purchases local merchandise, gas and food at restaurants and shops. They keep their dollars in Ontario, creating jobs, and are a source of taxes through their buying power. If the local park were to close or if the majority were to leave, a small local town could suffer

badly through lost tourist dollars. The Ontario Legislature has been aware of many complaints in situations regarding trailer parks and mobile homes and has done nothing to correct this problem. If 400,000 people and their money suddenly left and crossed the border to the United States, alarm bells would ring throughout the province.

There are many well-run trailer and mobile home parks in Ontario creating jobs and supplying a reasonable price for summer living and recreation. We do not need more regulations to cause hardship for small family-run businesses, but we do need legislation to resolve disputes. As it now stands, a person can be evicted at will with no recourse. If there is no other local park, a trailer owner can actually lose thousands of dollars. This is a common occurrence in Ontario.

If you receive a \$10 parking ticket, you have the right to appeal before the court for a decision. The Landlord and Tenant Act is up in the air on the subject of trailer parks; even land-lease laws evade the subject. If you shot someone in front of 100 people, you are still innocent until proven guilty. In my case, I was evicted from a park because I questioned high rent increases and the lack of proper maintenance of the park. Before this happened, I formed a park campers' association with the park owners' consent. This was soon cancelled and I was evicted as an example to others in the park to toe the line. I lost thousands of dollars because I was not allowed to sell my trailer onsite and also had to tear down my sun room.

I had been camping in this park over 15 years and never had a problem until new owners and management took over. The park manager and owners broke into my trailer in front of witnesses. At this time I was in town getting Ontario Provincial Police protection because I was threatened with bodily harm by the park manager. Due to the fact that this was classified as a civil matter by police, I was instructed to lay charges with the local justice of the peace the next day. After going back to the park, I found out about the break-in and that all the witnesses were told that anyone backing me up would also be evicted. I went to the local JOP the next day and explained the situation and was told that I had no recourse under the present law as written.

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I made arrangements to move out over the next few days, this after being harassed by the owner and manager, including a 3 am visit by the park manager. A family which backed me up was also evicted at the same time. I went to different lawyers to fight the eviction and to receive damages, and because of the wording of the legislation no case could be brought. The Ontario Human Rights Commission said because I was not a visible minority or an ethnic minority that they could not help either.

I contacted my local MPP for Hamilton East. I supplied documentation and examples of other situations of persons in other Ontario parks. He felt at this time that the situation warranted intervention from the government of the day. Correspondence was sent back and forth from Mr Sweeney, the minister of the day.

Then the election was called, and I was put in limbo. Even government members' assistants contacted me

through the election. Pending legislation was put on the back burner. I made this an election issue with local candidates. Even Bob Rae's office contacted me at 11:30 pm one evening for background information. When the NDP was elected and my member became a minister, I was forgotten about because there were other pressing issues before mine.

Now, after five years and considerable time and money, possible new legislation can be implemented to protect persons like myself. Let's not let this protection drop between the cracks again. The House has time to implement legislation before the next election, before another hole is dug.

I ask the committee to draft legislation to read, "When 10 or more trailer/mobile homes lease land for a period longer than 30 days consecutive, that these residents be deemed tenants under provincial land lease and the Landlord and Tenant Act of Ontario."

A person's rights of citizenship should not be lost because of land-lease agreements, as now is the case. Let's make the law equal for all renters and owners. As Canadians, this is a basic right, and all should have the right to justice and freedom to ask our legislators to ensure this freedom is on an equal playing field. Thank you for your time.

**Mrs Marland:** As the chairman of a committee that's actually been meeting next door to this committee room and has been reviewing the Ontario Human Rights Commission, I'm wondering about this statement, "The Ontario Human Rights Commission said because I was not a visible minority or an ethnic minority that they could not help either." Did they say that in writing to you?

**Mr Davidson:** I tried to get it in writing. They would not give it to me in writing. I even reported that statement to my local MPP.

**Mrs Marland:** Who is who?

**Mr Davidson:** Bob Mackenzie, Hamilton East, the present Labour minister. He basically called me a liar and said I made up the statement, but that's what I was told.

**Mrs Marland:** That's totally unacceptable, of course, and it's pretty remarkable.

**Mr Davidson:** I thought so too. I brought that up to my lawyer at the time, and he said that without any written verification, there was nothing I could do about it. But, as you can see, I've never let it lie.

**Mrs Marland:** You've introduced another aspect to this whole debate that's evolving around this private member's bill. I'm convinced that we have to have individual legislation for the retirement land-lease communities, because I think they are an entity in themselves. As somebody said very well yesterday, and I even wrote it down, "If we're trying to get one size that fits all, we might end up not fitting anybody." I think perhaps that's one of the main faults with this bill. There's no question there are problems in different communities, for some of the same reasons and some different reasons.

What I wanted to ask you is, if we were to do this thing properly, which would mean the government bringing in a bill and giving some time to the intelligence

of our civil servants, who are very competent—they're far more competent than the members of Parliament in drafting bills. If we were to draft bills to address, say, the retirement land-lease communities and then look at trailer-mobile home parks, do you think from your experience that we should look at trailer and mobile home parks in the two categories of whether or not they're used year-round?

**Mr Davidson:** The situation I would think that we should be looking at is, we don't need more bureaucracy for the parks. I can understand that situation, that's the last thing we need. But what I'm looking for in the legislation is protection for people like myself when there is a dispute, so that it can be resolved. Right now there's nothing.

**Mrs Marland:** But to have the protection, the bureaucracy has to draft something that then becomes the benchmark for how that operation is acceptable.

**Mr Davidson:** Yes, I agree with that. We need a mechanism and right now we don't have it. I took a copy of the Landlord and Tenant Act to my lawyer and under one section of the act I was covered, then you go to about the fourth page from the end and it says you're not covered. That one sentence disallowed me from any recourse in the courts. I couldn't do anything.

**Mrs Marland:** But the Landlord and Tenant Act was drafted and there are parts of that that we totally disagree with too, and that was drafted for a specific purpose. It was not drafted for this purpose. I think purpose, direction or legislation that is drafted with a specific purpose is the only thing that's going to work.

**Mr Davidson:** What you find in a lot of situations, as the young ladies before me would probably verify, there are a lot of seniors in parks who live on a fixed income. How can a landlord explain, "Well, your rent's \$1,000," and come up to you the next day and say, "By the way, your rent's gone up \$500. Either pay it or be out in the morning," which is legal right now.

I presented Mr Mackenzie with some documentation through one specific park near Dunnville, Ontario, where it was a violation of your lease not to sign the lease. If you disagreed with the lease, there was a little clause in there that said that on failure to sign that lease the owner can give you one half-hour's notice to vacate and charge you on a prorated hourly lease until you move.

**Mrs Marland:** What did Mr Mackenzie say about that?

**Mr Davidson:** We had sent quite a few letters and faxes back and forth to the previous Liberal government, and like I say, what had happened was the election was called and everything got put in limbo. I have had a lot of contact through some various ministries and parliamentary assistants, the Toronto Star actually picked up on the story and the Hamilton Spectator did a story on the subject, and we've gotten nowhere.

When I talk about maintenance in the park, my trailer was adjacent to the washrooms, the septic tanks had never been emptied and you could not even sit outside and eat. You had to shut your windows because the stench was so bad. The wiring was improperly done and



every time someone had a shower, they got an electric shock.

Myself and a few other people had gone to the park manager at the time to have the situation rectified, and this is where my problems started: I was a troublemaker. Within that time frame of a week, I was evicted. It is absolutely true to this very day, anyone that park managers knows who is associated with me will not be able to rent a spot in that park. That's the way it is, and the way the law is written he can do it.

**The Chair:** Thank you, Mrs Marland. Mr Mills?

**Mr Mills:** No, I have no questions, thank you.

**The Chair:** Parliamentary assistant?

**Mr Wessinger:** No questions.

**Mrs Marland:** You could ask some questions for Mr Mackenzie.

**The Chair:** We'll go to the official opposition.

**Mr Daigeler:** So what you'd like to see is that while we're at it, we might as well do a proper job.

**Mr Davidson:** Let's do it.

**Mr Daigeler:** And let's do it. If that takes a little bit longer, do you have any problems with that?

**Mr Davidson:** What's "longer"? Is it going to be another five years?

**Mr Daigeler:** In government we never know.

**Mr Davidson:** The one thing I disagree with is—I understand we need legislation to look at this situation. You're not going to get proper legislation by having a bunch of government bureaucrats write up something. What the government needs is someone like me or the ladies before me to sit down and help draft it. We experience the problems, we see the problems, we deal with it.

1440

**Mr Daigeler:** Of course there are always two sides to the story and the legislators will have a responsibility to come forward with solutions that hopefully cover both sides. I don't think we can just sit down with any one particular person and let that person draft the law. I think you will understand that.

**Mr Davidson:** But right now, the way the law is written, it's all one-sided now.

**Mr Daigeler:** Yes, that's fine, and that's where we have hearings such as this one here, where there are proposals put forward, and why there are consultations and why I think that is a useful process. This takes a bit of time. Consultation does take time, but I think it's worth it.

You are raising a concern that hasn't been brought forward and you say that while this whole matter is being looked at, there is this element that hasn't been considered and it should be part of it and you're asking us to take the time and include it. I appreciate that and I will make that point later on.

**Mr Davidson:** The park that I was in was located in Cayuga, Ontario. Actually, employment levels in that town are based on when that park is open for that six-month period: your local IGA, the gas station, the beer

store. There are approximately 200 trailers onsite, say, 600 people. What happens if that park was to close tomorrow? Where are those 600 people going to go? There's no other park close by, even if you can get into a park. What would it do to the local economy of that little town? We're all going to pay for it.

What we're asking is not to create a lot of bureaucracy but to give a guy like me a chance. I look at it this way. I'm a Canadian citizen. The way they treated me, I felt like a third-rate person. I have never, ever been given the chance to go before a judge or a tribunal and give my side of the story.

That park's been sold about five times over the last five years. I've talked to the new owners, "Let bygones be bygones." The manager's not coming back, I don't care. They've issued a no-trespass notice against me. I did the out-of-ordinary thing. I picketed the park, and of course the newspapers picked up on it and this is where it's gone from there. But there's no way of me being able to go back.

I'd been there 15 years. All my friends are there. A friend of mine had his 75th birthday there. I couldn't go.

**Mrs Marland:** Is your trailer still there?

**Mr Davidson:** No, I had to pull it out. They actually did break into my trailer and, when I had gone to the justice of the peace to lay criminal charges, he wouldn't even accept my charges. I later found out through legal representation that he had to accept the charges. If that had been dealt with then, I wouldn't be sitting here right now because at least I would have been in front of a court of law to give my side of the story, which I've never, ever been given.

**Mrs Marland:** Does the JP have a trailer in the park?

**Mr Davidson:** He also sits on the local Lions Club with the owner of the park. There is absolutely nothing I could do.

**The Chair:** Thank you for coming and bringing a new perspective to this issue.

BARBARA MACDONALD

**Ms Barbara Macdonald:** My name is Barbara Macdonald and I've been employed at the Wilmot Creek Retirement Community park in the sales office for the past six and a half years. For three and a half of those years, I lived in the park as well.

I do not hold a realtor's licence but I do sell homes for the builder, Ridge Pine Park. I'd like to be recognized today as a salesperson as well as an individual who believes in and enjoys Wilmot Creek as well as the people who live there.

I would like to address two of the amendments to the Landlord and Tenant Act.

The first item is the right to place a for-sale sign in the home or on the leased land. Wilmot Creek is a unique community. It is a country club lifestyle for seniors, and to see 50 or 60 for-sale signs posted throughout the park would, in my opinion, make the park look like a shanty town. We try very hard, as the landlord, to keep the park looking neat and tidy and attractive, not only for the home owner but for the prospective buyer.

When I am taking a prospective purchaser on a tour of the park, the question is asked: "Why are all these people selling?" Even though I answer, "Some are going to nursing homes. Some are going back to live near their children. Some are just not suited for the park," the main reason is common knowledge: Working with seniors, there is a higher turnover. Even though we all realize this fact, we do not want to be reminded that we are getting older, and in many cases we don't even want to admit it to ourselves. That's why I'm 39.

**Mr Conway:** Hear, hear.

**Mr Mills:** Me too.

**Mrs Marland:** Definitely me.

**Mr Daigeler:** Gord, the only problem is that you show it.

**Mrs Marland:** No, he doesn't.

**Mr Conway:** Too many people have been watching those Trudeau Memoirs.

**Ms Macdonald:** A question I also have for the committee is, "Where do you draw the line?" It is a selling tool when I can explain to the buyer that in the lease he is signing there is a clause which prohibits signs and advertising within the park and therefore he will not be bothered with that door-to-door salesperson, the vacuum cleaner salesperson, the Avon lady etc.

Your reply may be: "What's the problem with that? It's allowed in town." I agree it is, but the facts are that in town you will not be called by the home owners' association to say, "Remove that Avon book from the washroom," and "Who allowed it there?" Not only that, the president of the home owners' association called the lady in question, who also owns a home in the park, and said, "Please remove that book; it's not allowed."

If someone gets by the entrance and comes into the park to go door to door handing out a flyer or selling whatever it may be, he will not get any more than 10 houses into the park because I will get a phone call saying: "Please send staff. Get him out of here. He's not wanted." You do not have that happening in town, and maybe a lot of you might like it that way.

Any of the home owners I have spoken to have stated that they do not want sale signs. It is my opinion that if these signs are allowed, there will be less sales for both myself and other real estate agents, and as well the home owner will not be able to sell his home as quickly as he can now.

Yes, I would really like to have all the sales and all the commission that goes with it, but in reality some sales are going to go to real estate. I do not have a problem with that as long as a purchaser is well informed, as long as the purchaser understands the community, can afford the community, understands the lease, knows the rules and regulations, knows when the increases come into effect and is happy. I believe he will then get to know me when he lives in the community, and I can pick up the referral sale when he refers his brother or his friend.

The landlord advertises on CFRB and TV. Real estate only advertises in the local paper, and that does not give all the information as per this ad. This ad shows a picture

of a home in Wilmot Creek among all the other homes in Bowmanville or in Newcastle etc. It says: "Retire in style. Kitchen, dining room, Florida room, fireplace in living room. Shows beautifully. Asking only \$76,000." That's it. Nowhere does it mention leased land. Nowhere does it mention maintenance. The people are not informed, and it makes for an unhappy home owner later on.

One ad was in the paper and I phoned ReMax. I spoke to a Carol Hallman and I pretended to be a buyer, a person interested in buying a home at Wilmot Creek. This lady replied to me that every lease in Wilmot Creek came due and expired at the same time. That's dead wrong. She mentioned nothing about maintenance or anything to do with it. If I had been a buyer, I would not have known all the facts. When I inquired about the lease, she had no idea on it. She didn't know the rules or regulations or anything that went with it.

#### 1450

The lease is a specialized selling item. As it is now, people who come to Wilmot Creek, even to look around, do not see signs. Therefore, if they want information, they must come into the sales office, and when they come into the sales office, I can explain to them about the lease and about the maintenance, about the first-right-of refusal and everything that goes with them.

At Wilmot Creek 65% of the sale is lifestyle and community, the lease and the monthly payments. If you can sell those things well, the house will sell itself. If signs are posted, the purchaser does not have to come into the sales office. They can go direct to ReMax or whoever, and what do they know about the lease?

That leads me to the second item, the first right of refusal. First of all, I'd like to make it very clear that the home owners at Wilmot Creek may sell their home one of three ways: They may sell privately, they may go back to real estate or they may come back to the landlord. I'm selling on behalf of the landlord, and I sell both new and resales.

Since 1988 176 resales have been sold, and during 1993 I sold 34 resales and 9 new. If they sell through real estate and they keep the fair market value, we do not exercise the first right of refusal. I mean, let's face it, the name of the game is money, and if it is at fair market value and you can't make any money on it, why would you exercise the option, because you can't make any money, right?

Just two months ago, 151 Wilmot Trail sold through real estate for \$85,000. We never exercised our option. On the other hand, 193 Wilmot Trail sold for \$64,900. This home was one of our most popular models and it had more upgrades. We exercised our option, put in drywall and painted throughout and resold at \$79,900.

In most cases we exercise our option to make sure the value of the home does not drop below market value. Quite often, when they're advertised in the local paper, it is an estate sale where the children cannot afford to pay the expenses. The home has not cost them anything and they just want to get rid of it. If it's sold at \$45,000 or \$50,000, then we will exercise the option, make any



repairs and sell at market value. This way the neighbours' homes do not go down in value. In most cases the executors do not even realize the landlord sells resales.

In September, 17 Cove Road, and in December, 16 Bluffs Road, sold through real estate, and because of the first right of refusal clause, the offers crossed by desk. I then set up an appointment with the purchaser and the agent. In both of these cases, the purchasers had never been shown a lease, even though it was an assignment of a lease, had never seen the rules and regulations, did not know when the increases came into effect, and to top it off, one purchaser was given the wrong rental amount by \$120 per month.

All this took place after they had signed a legal and binding agreement to buy the house. I had to then explain to the buyer the first right of refusal clause, the rent amounts and any applications for rent increases and what the rent would be if the landlord received the applications applied for.

When I sell the home, the purchaser has all the facts before they sign an agreement to purchase. I also give the buyer a tour of our recreation hall, which is private property, so the real estate cannot do that either.

The real problem is, if the purchaser is not happy moving in, how can we expect to get a referral sale? By the way, out of those 34 resales, 14 of them were referrals. Plus, on a tour, I don't want to be tapped on the shoulder down in the recreation hall and have someone stop me and say, "I wasn't told this and I wasn't told that." I want the new buyer to be able to talk to the home owners and find them happy and contented with their lifestyle.

I feel if the first right of refusal is not allowed, the value of the homes will go down. The vendor will not receive the selling price he should have and the purchaser will not know the facts and will therefore be unhappy afterwards.

I would also like to add to my brief something I wrote last night. Ridge Pine Park has just received an order from the rent control board for a substantial increase retroactive to 1989. This would increase the number of homes for sale, in my opinion, to around 200 units. If signs are allowed, even in the window of the home, it would be a disaster. Let's say the landlord has 100 to sell, real estate has 50 and the other 50 are private. The signs are in the windows. If there are any sales at all, I see the following happening.

Ridge Pine Park pays CFRB to advertise and to bring the client to Wilmot Creek. I take the tour, I sell the lifestyle and the lease and I show a resale. The purchaser then has fair market value. He then goes into town to, let's say, ReMax and is shown an estate sale. The purchaser now has a below-market value. They recall seeing all these private-sale signs in windows and they return to the community, knock on the door and they buy a private-sale home at a lower value, less the real estate commission, because it's not listed with the realtor, right?

The results are: Ridge Pine Park lost advertising dollars and the sale; Barbara Macdonald lost the commission; the home owner lost the sale and is upset with the

company and the neighbour who sold; ReMax lost his advertising cost and he also lost the sale; the ReMax agent lost commission; the home owner from whom he was showing is upset with real estate and the neighbours, who sold privately.

Even given everything I have said, the big losers are Wilmot Creek and the home owners. We are selling a lifestyle where everyone is happy living together, enjoying all the amenities and helping each other. Our biggest asset is our people, but now we would have friend against friend and neighbour against neighbour.

I thank you for the opportunity of presenting my concerns before the committee makes a decision on these two items.

**Mr Mills:** Thank you, Ms Macdonald, for coming here. I want to make it perfectly clear that I am not an anti-Wilmot Creek person. I've been there many, many times, I think it's a wonderful place and you're quite right, it's a wonderful lifestyle; it makes you feel good to be there. I know I've stood down at the pool there with the Minister of Transport, I think it was last summer or the summer before, and he said, "Gord, let me know how you get in here."

**Ms Macdonald:** Did you send him to the sales office?

**Mr Mills:** No. I just want to put that in perspective.

**Mr Conway:** The Minister of Transport asked you that question?

**Mr Mills:** Yes, he did.

**Mr Conway:** We'll talk in private afterwards.

**Mr Mills:** Okay. Anyway, I just want to get it on record that I am far from being anti-Wilmot Creek. I recognize all the amenities there and how nice it is. I've been a guest in the Wheel House many times and I just can't speak highly enough of it.

Nevertheless, the fact is that as the representative for the riding that lies in, the people have come to me with some concerns and I have an obligation to do that, albeit free from any prejudice against Mr Rice or you or anyone else, and I hope you understand my role in this.

**Ms Macdonald:** Certainly.

**Mr Mills:** Having said all of that, I agree with you about these signs and I have a lot of empathy, because the people who live at Wilmot Creek have nearly rung my constituency phone off the hook with the increases you've had under the process that took place, as though suddenly I can magically say, "That's not true." But I can't do that, as everybody knows. So I have a lot of empathy with what I perceive to be some sales there that are going to be forced sales because folks who got in there on a limited income may be finding they can't keep there any more.

**Ms Macdonald:** I agree.

1500

**Mr Mills:** Recognizing that, and being of, I think, service to my constituents in that way, anything I can do or suggest that would help them effect a sale to someone who may be in a different bracket is my responsibility too. Mr Wessinger isn't here at the moment—

**Mrs Marland:** He's out writing his amendments.

**Mr Mills:** But I have a lot of empathy, to such an extent that I'm going to introduce an amendment to subsection 125(2) about the signage, because recognizing the intent and what Mr Wessenger had in mind here, I also think that I have to sort of bring to the attention of the committee some of the concerns that you've mentioned in so far as the tenants at Wilmot Creek signing, and above all the image of "This is a fire sale" and the whole process that goes on.

I have some personal empathy with what you're saying. A guy lived next door to me—this is off the subject a bit, but he died and his children wanted to get rid of the house. So they sold this massive house. The man bought it for \$197,000; they sold it for \$125,000. If I ever wanted to sell my house and go into a seniors' place or something, the real estate agent would say, "Well, that house there sold for \$125,000 and this one here is not so good." I understand what you're saying.

**Ms Macdonald:** Exactly.

**Mr Mills:** Exactly. Thank you.

**The Chair:** Do you have a response?

**Mrs Marland:** I'm feeling better already.

**Mr Mills:** Are you? Good. See, we're easy to get along with.

**The Chair:** Maybe we'll go to the official opposition.

**Mr Conway:** Listen, what does one say? I drive by Wilmot Creek every week, and I hear the ads—

**Ms Macdonald:** Do you stop in?

**Mr Conway:** Well, I'm, you know—

**Ms Macdonald:** You're 39. I know.

**Mr Conway:** I don't think he would ever sell me on that lifestyle, though I'm very impressed at how—

**Ms Macdonald:** Try me.

**Mr Conway:** No, I don't think—now, what does a person say in response to that?

**Mrs Marland:** I hear there are no trees.

**Ms Macdonald:** That's about the only drawback.

**Mr Owens:** He's reaching for his chequebook.

**Mr Conway:** But there is a problem and I think the committee is well aware of the problem around the signage. That seems to be a real issue, and I'll be happy to see an amendment. There are others circulating, one of which I think I have in front of me, in that respect.

I just thank you for your submission. I'm really bothered by this because there is a very real problem, but this is a multifaceted problem and there is no doubt that something ought to be done.

**Ms Macdonald:** I agree.

**Mr Conway:** As a member of the previous administration, I'm wholly guilty of the inaction about which there have been proper complaints advanced by several deputants over the last number of days. But I'm quite concerned about the way in which this is being done, and not because it's not well intentioned; I believe it to be. But we've had a couple of submissions from Wilmot Creek. I haven't had a chance to assess yours against the previous one this morning, but there are different worlds emerging here.

**Ms Macdonald:** The tenants are very upset at the moment because of this rent increase. I would love dearly to help them. I enjoy these people, I see them dearly. Part of the problem is, the fact has been there since 1989. They were aware of it; they knew the application was there. But the thing is, when they moved into the park there may have been two of them. One passed away, and with him his pension passed on too, leaving the one person with one pension.

**Mr Conway:** But I think this tension simply points to the range of interests that are at work in this witches' brew. There are a whole series of conflicting interests. I understand entirely your position and I think I understand entirely the group that was here this morning.

The job of this group of Solomons is of course to find an adequate redress that will solve most of the problems that have been identified. I have this sinking feeling that with the very best of intentions, Bill 21 is not going to solve some of the most serious of the problems that have been eloquently brought to the committee. But who am I? I appreciate your submission.

**Mrs Marland:** I don't know, Ms Macdonald, if you were here when we started this afternoon with the Tall Trees trailer park, but I sat here listening to Connie Flemming and Carolyn Crowe and looking at them as my own daughter or my sons, who could quite easily get into the situation that they're in. I'm sure it only points out that, as Mr Conway says, it is going to take a Solomon.

I think, with all due respect to Mr Wessenger, he has tried to address a problem through an experience in his riding, but the more we hear from everybody, the more convinced I am that Bill 21 isn't the solution either, because your concerns are different than the concerns of Mrs Crowe and Mrs Flemming and they're all valid; they all have to be addressed one way or another.

Were you here this morning?

**Ms Macdonald:** Yes, I was.

**Mrs Marland:** The gentleman who left, who was very upset, spoke to me yesterday and he said something about how I didn't understand that he had a \$160,000 investment and he had—

**Ms Macdonald:** That was \$160,000 probably in 1989, when the market was at its peak.

**Mrs Marland:** Does he live in Ridge Pine Park?

**Ms Macdonald:** Yes, he does.

**Mrs Marland:** I wondered, because he said, "You're going to see 250 homes up for sale this spring."

**Ms Macdonald:** That's true; you will. I say 200.

**Mrs Marland:** Listening to you, I wondered if this was the same property, because he didn't tell me where he lived.

**Ms Macdonald:** It is the same property.

**Mrs Marland:** The point is, under the Rent Control Act in 1989, what was the percentage increase?

**Ms Macdonald:** It was 24.4%.

**Mrs Marland:** So 24.4% in one year? That was the application?

**Ms Macdonald:** Yes.



**Mr Owens:** That was the Liberals' Bill 51.

**Mrs Marland:** Yes, it was the Liberal bill in 1989.

**Mr Conway:** Mea culpa. Mea maxima culpa.

**Mrs Marland:** But the point is, that is a substantial increase in one year. The thing that is wrong here, and I want to ask you if you agree with this, is it's something that in retrospect none of us sitting on the committee has the remedy for. That is, the rent appeal process, which no longer exists because the acts have been changed twice since 1989, has allowed for either side to appeal, and because of the backlog of appeals, these people—I have tenants in my riding who have been hit with rent increases like that and there's nowhere they can get the money to pay. And 1989, we're talking about five years' back rent at 24% a year. It is a tremendous hardship that these people face.

**Ms Macdonald:** Exactly. It is.

**Mrs Marland:** What do you see as a remedy?

**Ms Macdonald:** I don't know exactly what the remedy is. Like I'm saying, I would love to be able to help them. The facts were there in 1989. They all were aware that it was applied for.

**Mrs Marland:** Could you tell me how old Ridge Pine Park was in 1989?

**Ms Macdonald:** It started in 1984.

**Mrs Marland:** So it was only five years old. Why was it such a big rent increase in one year?

1510

**Ms Macdonald:** I don't know all the facts and details on that. I only get involved with the selling. But the fact is they all knew that this percentage was applied for. They then had a choice: They could stay or they could sell. In many cases they could have afforded it but, as I say, one partner may have passed away. They weren't counting on that, and with that one partner, as soon as they died, the pension died, so they were left on half the income that they ordinarily would have. They could have sold.

**Mrs Marland:** Except the market was down in 1989 too.

**Ms Macdonald:** The market was down, but it may have been better to sell in a lower market and not have taken the chance. The fact is they gambled that the company wouldn't get that percentage and the company gambled that it would and it won.

**The Chair:** Thank you, Ms Macdonald. We appreciated your presentation. Again a new view.

I've asked the clerk if he will distribute all amendments that we have received to date to all members. We will then take a short recess while the clerk, legal counsel and the Chairman have a look at these amendments so that we can decipher them somewhat as far as whether they're in order or not and such things. Then I will provide an opportunity for Mr Wessinger to make an opening statement, and any other members who wish to make statements, and then we will start the clause-by-clause, if that's acceptable to the committee.

**Mrs Marland:** Just a question on process here. Are all the amendments that are being—

**Mr Owens:** We win, Margaret.

**Mrs Marland:** What I was going to say, being perfectly honest, was, are all the amendments that are being distributed government amendments? The first package I look at says PC. I did not instruct my staff to prepare these amendments, so I don't even know what these amendments say.

The reason I didn't—and, Steve, you'll understand this—is that I couldn't direct my staff to prepare amendments when it's the same thing that we've dealt with yesterday and today: How do you prepare amendments to something when you don't even know what the form is going to be except the printed bill that has gone through first and second reading? So I don't know what to say about these PC amendments, because I have to study those myself too at this point.

**The Chair:** Of course, Mrs Marland, no amendment actually exists until it's made. These are really for information.

**Mrs Marland:** Okay.

**Mr Mills:** I just want to ask a question about process. You mention that all the amendments have to be over there for someone to look at.

**The Chair:** I didn't mean that. I meant that the amendments that we are presently in possession of will be distributed so people can have a look at them. If there are additional amendments that people know they want to place, I would appreciate if they can be given to the Chair at the earliest possible moment so we can distribute those to members so they can have a look at those.

**Mr Conway:** Can I just make a request? Because I think an adjournment is a very useful thing. This is a very interesting process in which we are now engaged. We have got a private member's bill on a matter of very significant province-wide impact.

I would like to know when we return whether or not in practical terms we are dealing with a measure that has been or is likely to be, as I believe it will be, favoured by government endorsement. Because if we are engaged in something other than that, it is one course of action. If, however, we are really looking at a government initiative in another name, which I understand, then I think that's really important not just for the committee but for people out there.

So if I could just have some indication at the beginning of the next session, that is, after the recess, what it is we are dealing with. Are we dealing, as I now believe we are, with essentially a government initiative standing in the name of the very fine member for Simcoe Centre? I think that will be useful.

**Mr Mills:** I would say that assumption is right.

**The Chair:** I understand also that there are representatives of the Ministry of Housing in the room.

**Mrs Marland:** I hope so. We have to have somebody who knows what's going on.

**The Chair:** I would just make this request as the Chair. As Mr Conway points out, this is a private member's bill and we may need some technical advice as we go through—

**Mrs Marland:** In fact, we should invite them to sit over here.

**The Chair:** —and we would appreciate seeing some people from the ministry here to aid us in our deliberations. At this point I think we'll take a recess. Is 15 minutes enough or do we need more?

**Mr Derek Fletcher (Guelph):** That sounds good.

**Mr Conway:** I'm not the one who's going to be answering these questions in six months' time.

**The Chair:** Well, let's take 20 to be safe.

*The committee recessed from 1516 to 1536.*

**The Chair:** The standing committee will come to order. First we'll approach this bill by having the sponsor of the bill, Mr Wessinger, make an opening statement, followed by people from each of the parties and any other member who wishes to make a statement.

**Mr Daigeler:** Yes, on the procedure, I appreciate what you just said and I welcome that. But in addition to that I think we should follow as closely as possible the normal process for bills and discussion of bills by committees, even though this is a private member's bill.

We've started with the hearings because of the time considerations, but I think in addition to the opening statements we normally have ministry officials come before the committee to give some background on the details of the bill. If we have any kinds of questions of clarification in relationship to other bills and so on, ministry officials answer that for us, and I'm sure you are aware there's considerable time spent to hear from the ministry officials on technical points. Frankly, given the nature of this bill I do think it would be most proper to hear from ministry officials as well at the appropriate time.

Now I'm in your hands. Obviously, the officials have to be advised, whether they're here or whatever. But in addition to the opening statements I do hope that we will have some time to hear and question ministry officials on this bill.

**The Chair:** I'm not exactly clear what you're suggesting. Do you wish the ministry to participate in the opening statement?

**Mr Daigeler:** No, after the opening statement, the way we have it normally. We normally have the minister, an opening statement, then the critics respond, this kind of thing, and after that, usually there's a presentation from ministry officials and questions and answers to ministry officials. So that second phase I would like to see happen as well. As to when it happens, obviously you have to arrange that with the ministry officials.

**Interjection:** That's not in the standing orders.

**The Chair:** Well, I think Mr Daigeler's right. Normally that is the procedure in how we operate. But I guess I confess also some concern that this is a new procedure for the Chair with a bill of this complexity.

**Mr Wessinger:** Perhaps I could indicate that there is legal counsel from the Ministry of Housing here—

**Mr Gary Wilson (Kingston and The Islands):** And policy advisers.

**Mr Wessinger:** —and policy advisers. I think there's

no reason why they couldn't be available to answer questions with respect to the bill, especially since this is a technical bill. I think that would certainly assist the members. Certainly, if you want initially to have some general questions I don't think there's any—

**Interjection:** It isn't a government bill.

**Mr Wessinger:** It isn't a government bill but they are here, available to answers questions. There's no question about that.

**Mr Daigeler:** If they're available to answer questions, I will do that then after we've finished with the opening remarks. We'll go from there.

**Mrs Marland:** Sitting here on this committee at the moment without Mr Conway I feel like a war veteran because I'm sitting here with nine years' experience, and in my nine years of experience this is an absolutely new experience. I have not experienced this kind of procedure and I think what Mr Daigeler is asking for is very reasonable.

We have here a real anomaly. We have a private member's bill, and even comparing it to a recent one of our colleagues' bills, Dianne Cunningham's private member's bill on bicycle helmets, it did not proceed the way this is.

My concern is that, first of all, we certainly have to have some agreement that the subject itself has become convoluted because of the many concerns and many genuine, valid comments that we've heard that put the subject itself into more than one category. Now we've got Mr Wessinger with his own amendments and possibly other amendments coming from Mr Wilson, who's parliamentary assistant to the minister. Do you have amendments from the minister?

**Mr Gary Wilson:** Yes.

**Mrs Marland:** So you see, the thing is that we are into a bit of a dog's breakfast here, to put it politely.

**Mr Gary Wilson:** I think also erroneously.

**Mrs Marland:** I really would like to think that we can proceed with some order. Because of what has gone on, I think it is important for us to hear from the minister. If Mr Wilson can speak on behalf of the minister and we can have ministry staff—I mean, it's been a very interesting procedure. Poor old Mr Wessinger. You see him in the hall and he's surrounded by these butterflies, he comes in here and he's surrounded by more butterflies. I'm sure at this point he probably doesn't know what amendment is up.

**Mr Gary Wilson:** He's used to that.

**The Chair:** Mrs Marland, I'm looking for some instruction on how we're to proceed.

**Mrs Marland:** All right. Then my instruction to you, Mr Chair, is that we would proceed as Mr Daigeler has suggested, that we do it as we do with government bills, which is that we have opening statements by the proponent of the bill, and if the Minister of Housing is also a proponent of the bill, it's important that we hear from the Minister of Housing or her parliamentary assistant. Then I think you have to hear from the two opposition critics or their representatives.



**The Chair:** I suggested that we begin by having Mr Wessinger make a statement and Mr Daigeler and then you, because you're the critic for the third party, then anyone else who wishes to make a statement. This being a private member's bill, I think we should proceed understanding that's the case and allowing all members an opportunity to speak on this.

**Mr Fletcher:** On a point of order, Mr Chair: Does the independent member have the right to speak also as his own critic?

**The Chair:** My understanding is this is a private member's bill. Party discipline does not apply during private members' hour.

**Mr Fletcher:** You're allowing the critics to speak. I was just wondering.

**The Chair:** There is some rotation. This will be a new experience for us all. I intend to recognize members during the clause-by-clause as they put up their hand and not in any other particular order, so I would presume—

**Mrs Marland:** I'm going to speak on Mr Fletcher's point of order. We had quite extensive meetings of the Legislative Assembly committee, and I think maybe Mr Owens was there for some of them, on the rights of independent members, and the government chose to be very exclusive about the rights of independent members.

I think we shouldn't start saying that maybe Mr White has the same rights as an independent member in all aspects of his presence on this committee. So we'd better be a little careful or else I'm going to move a recess till we dig out what the Legislative Assembly said about what it is you give up when you become an independent member, and there are disadvantages to being an independent member.

**The Chair:** I understand that point of order, but normally, Mrs Marland, you understand that during clause-by-clause the Chair generally just recognizes every member as they put up their hands to speak, and it could be five government members in a row or all the opposition members in a row. It's just the way they appear rather than by any political party.

Mr Fletcher, do you wish to make an intervention on how we are to proceed?

**Mr Fletcher:** No.

**The Chair:** Oh, I was wrong then. Mr Mills, did you?

**Mr Mills:** Just briefly. I sat on that committee that you are talking about, Margaret, and it was a different sort of circumstance altogether. We were talking about an independent's right to sit on a committee, and that was different.

**Mr Owens:** On a point of order, Mr Chairman: This has nothing to do with the discussion at hand.

**Mr Mills:** No, but that's just a point to bring back.

**Mr Owens:** With respect to my colleague, we have a bunch of people sitting in the audience here who have a significant problem on their property. Let's deal with that issue, and we'll debate the other issue later.

**The Chair:** I agree with you.

**Mr Owens:** We're not here to fight city hall today. Let's do the bill.

**The Chair:** What I intend to do is what the normal procedure of the committee would be. Mr Wessinger will go first, followed by a representative of each of the political parties. Any private member who wants to make a statement can do so, and then we will start with the clause-by-clause. Ministry officials are available to ask technical questions of.

**Mrs Marland:** Okay. What time are we sitting to and what time do we have on this bill tomorrow?

**The Chair:** We have all day tomorrow. The committee recesses at 5 o'clock.

**Mrs Marland:** Are we not dealing with Bill 95 tomorrow morning?

**The Chair:** We would if it hadn't been completed on Monday afternoon.

**Mrs Marland:** Okay. So we have all day tomorrow. Thank you.

**The Chair:** Now, I think we're settled. Mr Wessinger.

**Mr Wessinger:** Thank you, Mr Chair, that I might finally speak on this matter. I was just reviewing my notes when I spoke on this on second reading, and I think I can repeat some of the comments I made there. They're just as applicable now, and even perhaps more so than they were at the time.

I indicated at the time that this legislation would enhance the protection for tenants of land-lease community homes and tenants of mobile homes, and that is the intention of this legislation. I also indicated that the legislation is complex and technical, and the reason for that is because the law of landlord and tenant is also very complex and technical, as is planning law, as is perhaps the Rental Housing Protection Act.

I indicated that I knew there would be amendments to the bill because, unfortunately, private members don't have access to the expertise of ministry policy people or draftsmen when they're preparing a private member's bill. So this private member's bill was prepared on the basis of working with legislative counsel.

I indicated that I would look forward to suggestions for improvements to the legislation resulting from the public hearings, and also I was looking forward to the input from the Ministry of Housing, the Ministry of the Attorney General, if applicable, and the Ministry of Municipal Affairs with respect to this legislation, because I realize that with a private member drafting in a technical area of law, you're going to need the assistance of the Ministry of Housing.

I'd like to indicate that the majority of the amendments that have been put forward are technical in nature. They have been suggested by the Ministry of Housing as improvements to the legislation. They have been clarifying definitions in the legislation, and that is what the majority of these amendments will be.

The act basically amends the Landlord and Tenant Act to clarify that land-lease communities are under that act. It provides legislation with respect to certain substantive items concerning first rights of refusal, signs on property, consent in writing and several other items. It also amends

the Planning Act to provide that new mobile home parks or land-lease communities would be developed either under a plan of subdivision or under a site plan agreement.

The last item was the provisions with respect to the Rental Housing Protection Act, which would bring all mobile home parks and land-lease communities in Ontario under the provisions of that act.

1550

From the hearings today, you can see why I had a particular concern with that item, because in my own riding we heard from two particular mobile home parks where the owners have attempted to terminate the tenancies. They had no protection because the Landlord and Tenant Act provided, on four months' notice if they land is being changed to a different use, that they could get those orders. I am very concerned about the loss of equity that people suffer when this termination occurs.

I would encourage members, in dealing with this legislation, to take into account my comments with respect to the fact that it is a private member's bill. It did not have the expertise in the initial draft, and I would hope that they would, in a spirit of generosity—

**Mrs Marland:** But you're a lawyer.

**Mr Owens:** Don't hold that against him.

**Mr Wessinger:** Well, it did have lawyers' expertise, but there's quite a difference between lawyers' expertise and the expertise of a ministry, which has the whole policy division. It is much better at the technical aspects than an individual doing it on their own.

With that, I certainly would encourage the members to support this bill and the amendments thereto so that we have a very workable piece of legislation that will meet the immediate needs of those people who are facing the loss of their equity investment, will improve the marketability of their investment and give them greater security of tenure.

**The Chair:** Mr Daigeler, do you have some remarks?

**Mr Daigeler:** Yes. I think I should say first of all that we've been encouraging private members to come forward with projects and private bills and ideas. Mr Wessinger has followed up on that suggestion, and I think he's to be congratulated on that. I think it's a good step to see private member's bills and suggestions coming forward, being discussed in the House and reaching committee stage. I think that's good. I'm in favour of that. I think Parliament itself can only benefit from that if there's a certain independence and also a certain creativity on behalf of individual members of the House. I think we see the same movement at stake at the federal level. My leader has put forward ideas in that regard.

So I think it's good to have a private member's bill before the House and before the committee. At the same time, I do think we have seen with this experience that some edges in the process have to be smoothed out, and it's not quite as simple as simply putting forward a bill and then getting it approved and there it is. I think the very purpose of having three readings and having committee hearings, public hearings, committee discussion and clause-by-clause is to try and review bills and make

sure that they are as appropriate as possible, that the provisions of the law don't have to be changed very shortly thereafter, because it's extremely complicated to do that.

Generally with government bills there is, not always but normally, some time between the hearings and then clause-by-clause and these things get a bit digested. Frankly, I think for the most part that's very good.

In fact, my favourite topic is Bill 77, and the members are going to hear more about this, I'm sure, as the days go by. There too, I'm going to insist that there will be more public hearings on it, even though it's a government bill, because people have not been given a full opportunity to speak to it yet and give their advice and their opinions to the government.

On this bill that is before us I think we see the same occurrence, that through the public hearings process we have found that there is a serious problem. We have seen that there is an attempt to address it, but at the same time we've heard very clearly that there are some major shortcomings in the bill. I guess even Mr Wessinger recognizes that.

Some people are also saying it should be extended, it should be widened further. Certainly through this process of public hearings we have heard some very important comments that raise some very important questions about the bill, and before we recommend it to the House we should take some time for sober second thought, as they used to say for the upper chamber in Ottawa.

Given the significance and the importance of the matter that's dealt with by this bill, I would say that the government should look at this experience, should carefully analyse what the public has said and what we've heard in this debate, and it should be coming in with its own bill, as has often happened, frankly, in the House.

Private members have put forward their ideas. They have started a process and they have pushed, and then the government—I think all three governments that have been represented in Ontario have done that—has come in with its own bill and it has benefited from the work that a private member has done. It would seem to me, subject to further debate obviously, which we're having, that this is what should happen with this bill.

I have certainly learned a lot about the concerns that apparently exist with the land-lease communities and mobile homes and the different other forms of that kind of housing. While we're at it, I think we should be doing as good a job as possible. As Mr Wessinger has said himself, as a private member, he does not quite have the resources of the government at his disposal, and I do think that we should hear further from the ministry at this point and get some answers. But in the end, it would seem to me that we're not ready to give the final stamp of approval, in my opinion, to this particular bill, because there have been just too many questions that have been opened up in the public hearing process that require some further consideration.

Now, of course, the argument could be made, and I'm sure will be made, that perhaps if this doesn't get passed



right away, certain situations that are most unfortunate and that we all regret and that we want addressed are not going to be addressed right away. I've asked that several times of the witnesses: whether Bill 21 will in fact solve the problems that they described. I'm still not assured at all that the retroactive situations we were hearing of are going to be solved with this bill.

Therefore, I don't think we're in that much of a rush to have this approved in order to solve the problems that have been identified. In order to really solve the problems that have been identified, I think we have to take a little bit more time. I'm not saying that this should be postponed ad infinitum. I think the government has already at its disposal considerable work.

At one point, one of the ministry officials came and spoke about this interministerial committee that had been set up and a report that it had been preparing, and that we couldn't get because apparently it was advice to the minister. Apparently even a freedom of information request was made and this document still couldn't be had. But it clearly shows that some work has been done by the government on this, both by the previous government and by this government, so the ministry does not have to start from zero.

1600

Also, the work that we have done I think moves this matter a giant step forward. I don't see the need for the government to take an extraordinary amount of time in order to come in with its own bill, a bill that will reflect the points that have been made here and most likely should receive quite a quick—I mean, there still will have to be some kind of consultation, because several of the members of the public who came before us did specifically request another opportunity to be heard once a more refined version is before them. Nevertheless, I don't foresee that as a long-drawn-out process. I think it has to be a due process and I think it can be done. Some of the issues that Mr Wessinger, to his credit, has identified as serious problems that need to be addressed can be addressed by the government and by the House. I'm sure we on our side of the House are going to be very cooperative in that way and that there will then be a bill before the House that will stand and will actually do the job that Mr Wessinger has set himself out.

At this point, frankly, I'm just not convinced at all that with all these amendments, with all this paper that we have before us and with all the questions that have been raised during the public hearing process, we are at a stage to recommend to the House final approval of this legislation. I don't think we've reached that stage. I'll wait to see what my colleagues have to say and then we'll go from there.

**Mrs Marland:** I would like to say at the outset, first of all, I probably would have preferred that when Mr Wessinger made his opening statement a few moments ago, he hadn't just re-read his second-reading Hansard. I think what we've gone through—I've been very impressed with, I would say, all the deputations we heard yesterday and today. I think we've heard a lot of, frankly, quite poignant stories: not actually stories, but accounts of what people are experiencing. As the Housing critic

and spokesperson for our PC caucus, I feel very concerned about a number of the things that I have heard yesterday and today.

I want to personally thank everyone who has been here the last two days, because they have made a very valuable contribution in terms of the ability of all the committee members to look at this bill and try to deal with amendments that will be coming and to debate this bill honestly. I would have expected, really, that the mover of the bill might have responded to some of the things that people have brought to this committee room in the past two days.

I think one of the major concerns is that, whether we like to hear it or not, there has been a lack of consultation. There has been a lack of even—I respect, and I say this sincerely, Gord: Mr Mills said that he sent it out in his newsletter and so forth and did inform his constituents, and I commend him for it because that is something that is a vehicle of information. But I really think that when the government knows who all the operators are in the province—and when I say “operators,” I don't mean that critically. I mean that as a colloquial description, I guess, of the people who are in the business of planning and building retirement land-lease communities, people who are in the business of owning property and giving an opportunity for people with mobile homes and trailers to go somewhere that's a beautiful recreational escape for them. On the one side, those are the business people, and with the government knowing who these people are, because I'm quite sure they all pay business tax in one form or another and I'm sure the government's quite happy to take that—I think if there's any community that they know, it's those people.

I realize it's harder for the government to reach the individuals who use these facilities, especially the seasonal trailer parks and mobile home parks. Nevertheless, I think that when you're talking about people's livelihoods in terms of the business aspect on the one hand, and then on the other hand you're talking about people who have made a lifetime investment in a piece of property, namely, their mobile home, their less mobile, more permanent structure, whatever terminology you want to use for the buildings, we're talking on both sides a substantial investment.

I think government has a responsibility, when they are seeing a piece of legislation, be it their bill or a private member's bill—I think there's an outright obligation on the part of the government, which has the ability and the facilities to notify those people who will be first and mostly affected. When that doesn't happen, it really concerns me.

The other thing I also want to say just at the outset is that I felt very uncomfortable about something that happened here this morning. I now understand who the gentleman was who was so upset in the audience. The one thing I wanted to point out, and I'm putting this on the record because I feel very strongly about it and I certainly am not known for not speaking my mind—

**Mr Conway:** Hear, hear.

**Mrs Marland:** If there is one individual in our Legislature right now of 130 members who is absolutely

straightforward and honest, it's Mr Hans Daigeler. When he asked this morning a question which was, "Could you explain to me—" and excuse me, Hans, because I don't have Hansard to quote you accurately, but you said something to the effect of, "Could you explain to me what is, in real terms, the difference between the different kinds of structures?"

Coming from what particular member, that was a very sincere question. On the other hand, I understood the frustration of the individual who was in the audience watching this legislative committee that is going to make a decision on his \$130,000 investment. He's looking at all of us as committee members and he's thinking, "My God, they don't even know what the difference is with the structures."

I said something about basements. I know they don't all have basements; I know some of them are on concrete pads and so forth. Then you get the comment about, "Why don't you come out and see them?" You know, the reason for that elevated heat is the fact that the public come to us in a public process of hearings like this and they think we're experts. They think at least we know something about what they're here—

**Mr Mills:** Everything.

**Mrs Marland:** Yes, something about everything. Especially, they expect us to know something about the subject that we're talking about.

1610

Not every member in the House is as honest as Hans, who is willing to say, "I'm going to be debating this bill"—he didn't actually say this, but this is what he was meaning, I think. He's going to be debating this bill, as we all are. We're all going to be discussing the amendments, and he wanted to be the best informed that he could be. When I ask questions, I do it for the same reason. I'm never embarrassed to ask questions because I may be sitting on this committee today; I may be sitting in the committee room next door discussing health, social services, finance, auto insurance, whatever. We know, as members, that on any given day we can discuss half a dozen different subjects. The reason we are elected to do that, in my opinion, is because we hold a very real responsibility to try to separate the forest from the trees.

When we come down here and listen to depositions on something as important as those areas that Bill 21 covers, we have to do it to the best of our ability and with as much commitment as we can give it. I felt unhappy this morning because I felt what we saw was a reaction from the public, who perhaps think that we're all experts on everything, and then the frustration for this gentleman was, "Look who's going to be making the decision on my future." I simply put this on the record because of the fact that if the public didn't have us, then all we would have is the bureaucracy dealing with everything. We are here to represent the public to the best of our ability, whether or not we have a mobile-home park or a trailer park or a land-lease community in our riding.

I admired Hans Daigeler this morning for asking a question—

**Mr Owens:** Lyn is on the phone.

**Mrs Marland:** —that for all of us probably to some degree had to be clarified.

**Mr Mills:** Take the halo off.

**Mrs Marland:** Some people don't have the courage to ask those questions. They sit back and let somebody else ask them, but it doesn't mean they know any more than the person who's asking the question. They just don't have the intestinal fortitude to ask the question.

Speaking to the fact that I think the bill should be withdrawn, we can't underestimate what it is we're trying to resolve here. There were a number of people yesterday who in essence were talking about, I think as I said, the elephant-gun-to-kill-the-fly approach.

We also are in another box or another catch-22 this afternoon. That is, we have a bill that we know there are amendments to; there are more amendments and so forth coming. We also have heard the depositions today and yesterday. We also have an envelope here with I would guess maybe another 30 comments, letters and briefs in it. I'm looking at something that was also an addition, an enclosure, as an exhibit this morning.

Mr Clerk, this number 26, does that mean it's the 26th exhibit or submission?

**Clerk of the Committee (Mr Franco Carrozza):** Yes.

**Mrs Marland:** This happens to be from Larry O'Connor, the government member, the MPP for Durham-York, who is supporting a brief that was presented to the committee this morning. You know what I find very difficult? There again I'm being very direct. We haven't had an opportunity to read all this material because it is a private member's bill and we are forced into dealing with it the same day that we've heard the presenters or the day following the day we heard the presenters yesterday. I would like to read the balance of this material that's submitted to this committee.

Generally, you do not go into clause-by-clause the same day that you've heard presentations to a committee. That's another thing that I'm not happy about in this process. If I were the proponent of the bill, if I were Mr Wessinger—I don't know; I haven't asked him—I would prefer not to deal with clause-by-clause until there has been some time to go through and analyse what everybody is saying about a subject that, unless I were in the business or lived in one of these—I've decided there are at least three types of operation here that I'm not an expert on, but I can learn and I can make an educated judgement.

When we are looking at this whole subject—I said this yesterday and I'm going to repeat it again—we have to look at equity for two sides, whether we're talking about the land-lease community, the trailer home park, the mobile home park. We have to respect and I hope that the government members believe in property rights to some degree. I know that when we had the constitutional debate in the past few years I did listen to some of the NDP government members discuss property rights and what was wrong with them.

But I think you can't bring a bill before the Legislature that looks at protecting only one side. Mr Wessinger is



concerned for the tenants and their property rights, and I respect his sincerity, because in this case we're not talking about tenants in an apartment building where they are wholly inside somebody else's building; we're talking about tenants who bring their own building and live in their own building and live in their own investment on somebody else's land.

I guess there is a little bit of an irony here when I think of the government's position on the Workers' Compensation Board's new office building. Here we have a \$220-million ivory tower being built in Toronto, 30 storeys, on what? A land lease. On the one hand you can't separate yourselves, as government members, from the land-lease philosophy in terms of someone who is in that business, and yet support the investment of \$220 million by the WCB—

**Mr Mills:** What has this got to do with it?

**Mrs Marland:** You were talking. You would have heard it if you hadn't just been talking, Gord.

**Mr Mills:** I'm talking about the bill.

**Mr Owens:** I was listening and I still don't understand it.

**Mrs Marland:** I'm talking about the business of being in land leases. If we are talking about equity for property owners we have to talk about real property and we have to talk about structure.

When I look at Cedar Grove park in Mississauga, which is in Mr Sola's riding, I look at a family that has owned that property in excess of 40 years, I look at what I think is close to 300 homes, I look at people who've lived in those homes, some of them for 40 years, a lot of them senior citizens and I think there is such cause for concern on our part for both of them: on the one hand the Pallett family that wants to retire and sell its property; on the other hand all these were mobile homes that the people have built their gardens around and built their sunrooms on and so forth and done all their landscaping and their driveways. They've spent money making an investment to have their home on what is private property, privately owned by the Palletts.

Now the Palletts are in their 70s. They want to retire. They're entitled, in a free country, to have the equity out of their land, and yet we are concerned, as a community, about where these people will go who have lived there all of these years knowing that first of all their homes really aren't mobile any more, and even if they were mobile, where are you going to take them? There certainly is no land in the greater Toronto area; I know for sure there isn't any in Mississauga. Can you imagine trying to start a trailer park in the greater Toronto area now where these people could go and be re-established, and the trauma for seniors leaving this place where they've lived for 40 years and moving away from their doctors, their friends, their churches and essentially their community?

1620

It is a complex subject. Because it's so complex and because I believe in equity for both sides I do not think a private member's bill is the way we should go. The public has a right to be protected by this Legislature and the public are the people in this province who own

property, whether it's just land or it's a building, the people who are in business and the people who are the tenants who lease their pieces of property.

My concern is that I think this bill is not the solution. I think we have heard enough in the last two days, all of us as intelligent, committed representatives of our own individual ridings, and bearing in mind that when we sit on this committee we actually are speaking for and representing all the other ridings in the province that aren't represented, because we're just here representing our own ridings; we have to be speaking and looking to the interests of the entire province. As we do that, you have to become more and more convinced that one approach to this very complex subject in the form of this private member's bill cannot be the solution.

I would like to ask if Mr Wessenger would consider, since he has these 24 sections in this bill—you did have 27 amendments and I noticed we had another couple of amendments. I don't know how many amendments Mr Wessenger has now to the bill. I was wondering if he would consider withdrawing the bill. If he would make that consideration, I would give him a commitment on the part of our caucus that we would work with the government to find a solution that is equitable for everyone who is impacted by this subject matter. I ask you that, Mr Wessenger, through the Chair.

**The Chair:** Mr Wessenger will reply to all the statements when they are complete.

**Mrs Marland:** All right. Then I will wait with great anticipation for his response. I hope, while he considers that response, that he views very seriously the fact that on both sides of this issue we are talking about lifetime investments. I was very interested listening to people yesterday, and I think actually Mr Maxfield is still here—obviously for Mr Maxfield and I think Mr Morgan, these are small family businesses. I talked to a couple that didn't make a deputation here yesterday. They're from the Brockville area. They bought a park only three years ago, just a young couple that bought it as a business. That is a lifetime major business venture for them, and ironically enough for them everything is going fine. They must be good operators. They only have 21 units. They're all seniors. Everything is going along beautifully.

I think what we have to be committed to is recognizing that there are good people, excellent people in this business in all three categories, and there are some very bad operators who, to put it very politely, might be referred to as scoundrels in business. I wouldn't like to use anything stronger but there certainly are stronger words that would be just as appropriate.

**Mr Owens:** Why don't you give us a couple?

**Mrs Marland:** Because I know you. I don't need to give them to you, Mr Owens, because you do have your own vocabulary.

Mr Heard from the Golden Horseshoe Court Developments said yesterday—I referred to this earlier this afternoon—"Perhaps what's happening here is that you're trying to get the one size that might fit all that might end up not fitting anybody." I think for that reason we would certainly be interested in a separate act for land-lease

retirement communities and we also would like to see a separate act dealing with mobile and trailer home parks. Interestingly enough I would say to the government members—Derek, you might like to hear this—

**Mr Fletcher:** I don't think so, Margaret; I'm not sure.

**Mrs Marland:** —the letter from Mr O'Connor in which he said, "I have been involved with groups from my constituency such as the Ontario Owned-Home Leased-Lot Federation at Sutton-by-the-Lake, and I am in complete sympathy with their concerns." Now he'll be able to send this quote from Hansard out because I've read it for him, but that group was here this morning and—

**Mr Mills:** We don't do that sort of thing.

**Mrs Marland:** No, but he's very sincere about this and he—

*Interjection.*

**Mrs Marland:** Well, you told me. You did. You said you informed the—

**Mr Mills:** Yes, but not quotes from Hansard, for goodness' sake.

**Mrs Marland:** Anyway, one of the things that his presenter from the Ontario Owned-Home Leased-Lot Federation said this morning was, "We believe that planned retirement communities called land-lease communities are an acceptable form of housing for persons over the age of 55." Another quote I'd like to make is—for the sake of Hansard, I am reading this from Ms Phyllis Baker's brief this morning—"If seniors are to live in a safe, secure and supportive environment every attempt should be made to make that environment as stress-free as possible." I was very happy—because my daughter's in the hospital and I had to miss this presentation this morning—to read her brief when I had time at lunchtime and very happy to read the letter of Mr O'Connor, a government member, saying that he is in total agreement.

So we do have government members who agree with seniors' housing. As the Housing critic for a party that also believes in seniors' housing and adults-only communities and adults-only buildings, I am elated to know that at least one member of the government caucus supports that viewpoint of our caucus.

I will stop at this point with the question that I put on the record for Mr Wessinger—I will look forward to his answer—and the other point, that our goal would be to have individual acts to address the individual problems and challenges for the two, particularly the two, perhaps even three categories of living environment housing choices for the people of Ontario.

**Mr Mills:** I promise to be very succinct in my remarks.

**Mr Daigeler:** You have broken other promises before.

**Mr Mills:** I want to start off by saying that you remarked about a—

**The Chair:** Through the Chair, Mr Mills.

**Mr Mills:** There was a gentleman who was frustrated this morning and I just want to convey to you that the gentleman is under a great deal of stress, and I'll explain

that personally afterwards so that's off the record, just to clear that up.

1630

I just want to talk about my involvement in this legislation. When I went to Wilmot Creek in 1984 or 1985 when it opened—my wife and I went there to have a look at the place—I never thought for one minute that I'd be sitting some years later talking about Wilmot Creek and Bill 21.

Nevertheless, when I was elected, the folks down there came to me and said, "We had some encouragement from the previous member who sat for Simcoe Centre, Mr Bruce Owen, which I'm sure you're all aware of, that this land-lease problem was going to be addressed." They were under the impression at Wilmot Creek that somehow Mr Owens had put in some mechanism whereby this was going to be addressed, you see.

**Mr Owens:** Mr Owen.

**Mr Mills:** Mr Owen, I'm sorry; not you. Anyway, I said I'd look into this. I looked into it and I found out, of course, what you all know now, that it was just a resolution and it really had no substance to it in so far as it hadn't gone anywhere.

I was very lucky when I was elected in 1990 to have a very bright intern, who was a lawyer, come to work with me. His name was Don Figel. I'll get that on the record because I'm going to send him a copy of this.

Don was a very articulate, bright young fellow, and it's a pity the folks from Wilmot Creek are not here, because I said to Don, "I've got a real problem here and you can get your teeth into it." That young man worked on it for four months, and he interviewed goodness knows how many people in all kinds of ministries. We tried to get our hands on that interministerial document, you see, and everywhere we went he came back and told me, "Gord, they won't give it to me." Now we know that we couldn't get it even under the FOI.

Eventually, he compiled a report on what he perceived as the whole nub of the problem with land-lease lots and other types of housing, and he produced a big report. I'll never forget the night we went down to Wilmot Creek to deliver this report and report on it. There were 500 people in the Wheel House that evening, as we sat there and went through it.

**Mrs Marland:** What is this Wheel House you've referred to?

**Mr Mills:** The Wheel House is their recreation centre. It's a wonderful recreation centre, and I invite everyone to go and see it.

Anyway, we had 500 people there and we went through this—

**Mr Conway:** They probably need you to get in, Gordie.

**The Chair:** Interjections are out of order.

**Mr Mills:** We went through this document with all the residents, and we explained to those folks how difficult it was. We had the Ministry of Housing involved, we had the Attorney General involved, we had the Ministry of Municipal Affairs. We couldn't get



answers. It was a dog's breakfast, as Mr Conway would say.

We really got a feel for what the problems were, not only in Wilmot Creek, because this spread, and I have other mobile homes in my riding. One up at Janetville, for instance, is a nightmare; it's a different sort of operation. I think there's one that Joan and I share out at Marysville, and all these people suddenly became interested in this.

So I felt somewhat obligated to pursue this. It's been a goal with me to get here today to talk about this, and I don't mind admitting that.

In our caucus we discussed this. We have 32 ridings that identified themselves as having this type of problem. We had meetings in our caucus and we discussed the problems. I can tell you that this is all across Ontario, and the report back that we had from our membership was that there has to be something done about it.

I commend my colleague and friend Paul Wessenger, whom I've known for many years, for coming up with something like this. It's no secret that I even approached the Premier about it, that it's such a problem.

**Mrs Marland:** What did the Premier say?

**Mr Mills:** He agreed it's a problem.

**Mr Arnott:** Why isn't it a government bill?

**Mr Mills:** Well, that's another story, one I won't share with you.

*Interjections.*

**The Chair:** Through the Chair.

**Mr Mills:** I just want to point out that contrary to what has been suggested, that the public per se hasn't known about this or hasn't been in on this, it's been very widely discussed across Ontario, certainly in the members' ridings in our caucus. We have had a broad base of opinion, and I tried to emphasize it here. I've got 700 signatures there from the folks at Wilmot Creek, who said to me, as I think it says on there—if you'll bear with me, Mr Chair, it says, "We're asking you to proceed as expeditiously as possible to third reading of Bill 21."

I think it only fair for me to tell you that those 700 signatures on there—I would suggest to you, Mrs Marland, that many of them represent a Conservative allegiance, and at the same time, to Mr Conway and Ms Fawcett, a Liberal allegiance. I would say that when I got back to the all-candidates' meeting at Wilmot Creek, when I went down there to talk to the folks in 1990, I can tell you there were precious few NDP people there, and that's quite honest. So I'm saying to you that this isn't—

**Mr Fletcher:** There are probably fewer now.

**Mr Mills:** Well, there's more now, I hope. But these folks here are representing an opinion that they want Bill 21 passed, and I'm just passing that information on to you. I think you should support it, because none of these people are making any bones about it, and it tickled me pink that when I went down to Wilmot Creek in the federal election I saw all these signs. So I know their party affiliation. There was, I think, one NDP sign down there, but all the rest were Liberal and Conservative.

So you can see that this isn't a party thing, and that's why I'm appealing to you to support this bill. I think Mr Wessenger's worked very hard on this. We know that perhaps it doesn't address all seasons and all men, but we've heard people who have come here and—

**Mrs Marland:** And women.

**Mr Mills:** I beg your pardon. We've heard people who have come to this committee and said, "Look, we need to do something about it," and I'm saying to you that we are here to do something about it. We can criticize everything that anyone ever does, but I'm saying to you that this is a step forward.

I hope people don't think we're anti-landlord or anything, but I've spoken to Mr Rice, who's here this afternoon, about this bill and he said to me, "You know, if you can introduce a mild amendment," which I'm going to do later on, "I'm quite happy with this." So I'm saying to you folks over there, here we have a key player who says to me, "You do that, and I'm happy with it." I can't see what the big concern about it is.

I'm not going to prolong this discussion. I'm going to support it. I'd like to commend my colleague on it. It's been a long, hard battle, and I know that the folks I represent look to me in some small measure to help resolve the problems that they've had and foresee, not only in the different types of parks in my area. So, Mr Chair, I hope that we can carry on and get this thing put to bed. Thank you very much.

**The Chair:** Thank you. I have Mrs Fawcett on the list.

**Mrs Fawcett:** Certainly the last three days have been most interesting and enlightening on both sides of the issue, but I think the one thing that disturbs me is that the process we find ourselves in on this particular bill is somewhat precedent-setting. Certainly I know that I have been in the Legislature a limited number of years, but I haven't seen this method of a private member's bill, and in asking some of my colleagues who have been around a little longer, I don't think they have seen this process either.

1640

I have a little bit of experience in that I did have a private member's bill passed, with government support, but it certainly didn't take the form that this particular private member's bill is taking. Mind you, it was quite a different kind of bill in that it was one for the firefighters of Ontario and, more in particular, the volunteer firefighters. So it was a very positive bill that went through, and I'm very grateful to both ministers of Transportation who did support the bill.

But this one is certainly very different, and it presents some problems in how we deal, completely, with the whole thing, because you never quite know what the rules are. You know that there are standing orders, and it would seem that there's nothing really out of line completely, yet it's just not the normal procedure. I guess that's the one wonderful thing about this job: There's something new and different every day you turn around.

One thing I would like to know is whether or not it's possible to get a complete package of NDP amendments.

We've got two government amendments now, we have nine amendments from Mr Wessinger today, I believe, but then there were the 27 and I don't know whether they add on to the nine. Then there were six PC amendments, and I don't know where they stand right at the moment. So really, it's been quite interesting.

Getting back to the actual problem, we have certainly heard compelling arguments on both sides of the issue, and I believe, as legislators, finding the answers to the problems on both sides, to me, requires more time than we are going to have here. Certainly there are the bad actors and they need to be dealt with, and I have first-hand knowledge of bad actors, but I also have—

*Interjection.*

**Mrs Fawcett:** Well, businesses in the riding, two trailer parks that I know of that seem to be operating all right. Mind you, I'm sure there could be problems, but maybe there is a mechanism there that they have of dealing with the problems. I think that's something that people on both sides of the issue—it would be really to their advantage if, you know, compromise could be worked out instead of maybe government having to come in and solve everything. Yet I know that's possibly pie in the sky, that we do need legislation that is going to assist.

But as my colleague beside me referred to Solomon earlier today, I wish we had a Solomon who could come down and solve this, because we know, and I certainly would agree, that the operators who try to run a good business deserve to be treated in a different manner from the operators who do not, and the ones who do not definitely need to be penalized. I think those are things we have to look at.

I believe that there was a lack of consultation and even notification about this whole thing. I believe that's why we really do need to, in some ways, stop this right now and start all over again with a proper process where everyone who wants to be heard can be heard and we come as a proper legislative committee with all parties agreeing on a method to solve the problems.

So I'm happy that we were reminded of the inter-ministerial committee, and I would suggest that it would be really advantageous to somehow get knowledge of exactly what was found out, but I understand the rules and that it may not be possible.

I hope we can somehow eliminate the Mexican standoffs that seem to be happening in some ridings and come to an agreeable solution to the problems, but I really do wonder if that's possible at this very time and under these particular rules that we seem to be operating under at the moment.

**Mr Drummond White (Durham Centre):** I won't take much time. I did want to make a few comments, very simple ones. First of all, I want to comment upon this process of the private member's bill and wholeheartedly congratulate Mr Wessinger for taking the initiative and showing the perseverance to get this bill to this state. Certainly I believe under the previous government there was some action around a private member's bill, but prior to that there had been somewhat of a freeze in that whole area for some four or five decades.

**Mrs Marland:** Prior to that land-lease communities didn't exist.

**Mr White:** I think Mr Daigeler and Ms Marland and Ms Fawcett point out that this is a unique process in the sense that the Ministry of Housing, I believe, has assisted Mr Wessinger in some of the amendments. However, despite its cooperation—and I think the ministry should be commended for its assistance of Mr Wessinger—it is a bill that he's putting forth as a private member, not as a member of the government.

I'm sure Mr Wessinger knows of some of my own concerns and will support me in those in months to come. This bill, I understand, has some substantive agreement and some substantive support across the way with the Liberal and Conservative members and with many members of our government and myself. I also support this bill, for a number of reasons. I understand Mr Owen, Mr Wessinger's predecessor, was concerned about the bill and was concerned about these rights and was attempting some redress to this issue. I'm impressed that Mr Wessinger has carried on that struggle that his predecessor, a member of the previous Liberal government, initiated.

I think, though, to suggest that we should delay it, we should rework it, belies the fact that the people in these developments have for many years felt and still feel a tremendous urgency to have their concerns met and dealt with by law. I know certainly the members of the trailer park association whose development is in fact right across the King's Highway 2 from my office in Whitby are very concerned. They have felt an urgency about this issue. Mr Emoff, who was here yesterday, has called my office innumerable times saying: "When is Bill 21 going to be passed? When will we have these rights?" To suggest that we should put it off I don't think would allow them the certainty they deserve and have deserved for some time. To reintroduce formal government legislation may in fact mean the delay of those rights, not just for a period of months, but it could well mean the delay of those rights into the next term.

While I congratulate Mr Mills, Mr Wessinger and other members of the government caucus for pushing forward with these issues, I would also like to say that when I look at the amendments that have been put forth, I have some concerns about whether they might not water the bill down to the extent that it may not continue to meet all the ends it was desired to meet. I'm looking forward to hearing Mr Wessinger's comments on those amendments and hope my concerns will be allayed during that discussion.

1650

**Mr Arnott:** I want to keep my remarks fairly brief on this, but I must say that this Bill 21, which is purported to expand the rights of the residents in land-lease communities, or trailer parks, as they're more commonly called, has created some degree of interest in Wellington county. I mentioned earlier Don Vallery, who took the time to make a presentation to this committee, which all committee members have, and again I would recommend to them that they read it.

I find myself in an unusual position arguing irregular



process with the NDP, because I find so often the role is reversed. In this process, we see a private member's bill. We all know in history and in the history of the practice of this place private members' bills typically do not become law but they're seen as an opportunity for an idea to be raised, to be put forward, arguments to be registered for and against, and then at some point, if the government of the day agrees with the underlying philosophy of the private member's bill, it comes forward as a government bill and then proper scrutiny is applied to the bill. This doesn't appear to be the process with this one. It appears that the government is in fact supportive of this private member's bill and that in fact they wish to make it the law of the land.

I have to say I'm concerned about that, because we've seen a minimum, I guess, of a day and a half, two days of public hearings on a bill which we all agree will have deep and profound consequences. We've seen 27 amendments which were brought forward to the committee yesterday and additional amendments brought forward today.

Again, I have a constituent, Don Vallery, who took the time to make this presentation, who is very interested in the bill, who has people who live on his land, leased land in his area, who also have an interest in this bill. I'd like to have the opportunity to consult with them on this to bring back their views. I'm not going to have that time, because I've got the amendments tonight. I suppose I could try to seek them out, but it's literally impossible to get their meaningful input on the amendments in order to again bring this back to the committee. I'm very concerned about that.

I don't think what we've seen, the way this bill has been handled through this committee, has been good business practice for the business of government. The people who came forward today did not get an opportunity to see the amendments—and I asked that question of several of them—they did not get an opportunity to read the amendments that had been brought forward yesterday, so in many cases they were talking about something different than what we already understood the bill to be at that point. I don't believe it was fair to the deputants the way this was done. I'm certain that if the amendments could have been prepared a month ago and if the deputants could have been informed of the intention of Mr Wessinger to bring forward amendments, at least they would have had a better understanding of what the bill was going to be. In that sense, as I say, I think the way it was done was unfair to them.

I also agree that if we come to the consensus that there has to be legislation to prevent the excesses of some of the things that have been happening, some of the things we've heard over the last couple of days that clearly indicate the government needs to act to ensure that these abusive situations where the people who lease property from people who own the land, in this case, where those land owners abuse the situation and the power they have as the land owner, then the government has to act—if we accept that that's necessary, I think we should agree that there needs to be an appropriate balance, and I'm not sure this bill achieves a fair balance between the rights of

the people who own the land and those who lease it.

In the case of Pine Meadows again—I keep referring to my constituent—people are purchasing houses, beautiful houses, \$129,000—that's a fairly nice house in Wellington county—and then leasing the land. Those people have a very significant investment and that ought to be recognized in legislation, as well as Mr Vallery, who has undertaken significant investment to develop the park the way it is. As I say, it is beautiful.

I suppose I'm fortunate in Wellington county in that I haven't had situations come to my attention where any of the owners of these properties were acting in any way that would lend itself to problems. In many cases the owners actually live in the communities on the land that they lease to others. They're leasing to their neighbours, and everybody learns to cooperate and there are no problems.

I have another question too, and I hope the parliamentary assistant might answer it. I'm wondering why, in many of these cases of the people who want to complain or feel they've been aggrieved, redress through the courts is not available to them. I assume it is. It might be difficult for some, but I assume it is. I wonder why that's not enough.

I'll probably close with that point, but I find this process extremely irregular and the time frame we're given to respond to the amendments is just not enough.

**Mr Conway:** I have some comments about a very interesting, substantive matter and procedure that underlies it. I want to say that I'm of course not ordinarily a member of the committee. I'm here substituting for someone. I can't remember who at the present time, but that's neither here nor there.

Unlike other members, I have not had in the last 15 years, that I can think of, a major problem with a mobile home park. I can remember nearly 20 years ago, in the early days of my public life, a particularly intractable problem up in the Petawawa area where we had a situation that caused a lot of grief. So I just simply want to say that I don't have the experience that some other members have had in this particular regard, though I have had some.

But I want to say a couple of things about the procedure that we're pursuing here, because on the one hand I like the idea. I think the notion that private members can initiate more legislation than has customarily been the case around here over the decades is probably a good thing.

My experience with private members' bills becoming law in the last 20 years is not great because in fact there wasn't very much. There was the odd bill. The sainted Ross McClellan, currently of the Premier's office, I think put on the statute books a bill that was unanimously agreed to having to do with moving up the beginning of daylight saving time. That was the kind of thing, quite frankly, that private members were allowed to do by the executive council.

**Mrs Marland:** Mr Kennedy established Arbour Day.

**Mr Conway:** Yes, and then, as my friend from Mississauga points out, her very distinguished prede-



cessor, Doug Kennedy, from Mississauga enacted legislation in the name of Her Majesty enshrining Arbour Day. Those are the kinds of things that have in fact customarily been associated with and allowed to private members.

Now, some people might say, "Why is it so?" There are a number of reasons, but one of the reasons that I think has to be understood is that matters of greater public policy affecting the entire province are by definition simply more complex and complicated.

I look around the room; I see a lot of very good people. I don't mean to be immodest, but I think I'm probably the only one here who has in a previous life had the responsibilities of being a cabinet minister doing major legislation. I can think of two or three bills that were worked on by hundreds of people, in one case probably thousands of people, and with great diligence and great effect. They were advertised, there were white papers and green papers and there were drafts, and at the end of the day, and the end of the day came years into the process, I was struck by just how many unanticipated consequences, how many pieces were out there for somebody else to fix. It wasn't anybody's fault. That's just the nature of governance in a province that has 10 million people in as varied a community setting as Metropolitan Toronto and Shining Tree, Nickel Belt.

1700

So I simply want to say that we are I think engaged here in a process that is unusual. I'm sure I could be contradicted, but I can't remember a time when a private member's initiative was allowed to proceed, clearly with the support of government, to deal in relatively short order, notwithstanding all that we've all talked about—

**Mr Owens:** The gambling, Mahoney's and Dianne Cunningham's.

**Mr Conway:** Again, I would suggest that is of a different order. If you don't believe me, enact Bill 21 and stand by for the consequences because undoubtedly Bill 21 will address certain issues that are out there.

I'm not at all persuaded that Bill 21 is going to solve some of the most serious problems that have been complained of in this committee, but I am no expert whatsoever. I do know this: Doing this, this way, will give new life to the theory of unintended consequences. It will fall to some poor minister of the crown, not any of us because, of course, that's why they get paid the big bucks, get the chauffeur, the title and all of that staff support. But somebody out there is going to, if Bill 21 passes, within about, I suspect, six months, maybe six weeks, be busily beaver away on picking up the pieces, because you just simply can't do this kind of surgery, however well intended you are.

I know the member from Barrie. He's a very fine fellow. He knows a lot about a lot.

**Mr Daigeler:** He can send that Hansard now.

**Mr Conway:** He can do whatever he wishes. I simply point out that we don't normally undertake this kind of significant, province-wide legislative initiative in this fashion. That doesn't mean to say we can't, but if we choose to, I've got to tell you, we have got to amend the process.

The member for Durham East is eloquent as he reminds us of all of the problems that he has personally experienced and to which he can point with great effect over the course of these hearings. But I can tell you, in a province of 10 million people, there are thousands of people out there none of us has heard from who have problems we haven't even begun to contemplate that will too become part of this policy.

I suspect that the embargoed document that was initiated by that awful former government contains within it some very interesting material. I might be wrong, but I can't imagine that the group that worked on that didn't mine the ore in such a way as to identify a number of issues that probably have not been canvassed in this particular hearing.

I want to say that it may very well be that the time has come to change the way we do business with private members' items, but I have to tell you, if we're going to make that change, I think we have got to change significantly the way in which we canvass the province, the way in which we advertise.

Quite frankly, I am a member of the Legislature. I came in here this week. I had no idea—I now do, but I got it as of about yesterday—that this Wessenger bill is kind of a happy Trojan Horse. This isn't a private member's bill, really; this is government policy. There's nothing wrong with that, but I found that out yesterday. Out there in the vast expanse of Ontario, there are hundreds of people at least who have a material interest in this who, if this proceeds in this connection, are not going to even hear about the existence of Bill 21 until it is either completed or well down the path. I say again, we have an obligation, having regard to our total mandate, to take regard of those people.

Now, as I say, it won't fall to most of us, because those people are, when they figure this out, going to go lickety-split to the poor Minister of Housing and maybe the Minister of Municipal Affairs and maybe the Minister of Finance and/or the Minister of Economic Development and Trade, because there'll be scores of mom-and-pop owners out there, there will be all kinds of tenants and property owners who own the owned home portion of these land-lease properties, who are going to say, "What?" You could see it just in the course of the testimony.

I haven't canvassed it with the care that Mrs Fawcett and Mrs Marland and others have done, but I've sat here listening to people coming from the same community with rather different perspectives around the problem. I think it's clear to anyone listening that there are two or three categories here that have to be dealt with, and it's not at all clear to me that the mechanisms here in fact adequately address the issues and the problems in each of the categories.

It now being 5:05, I'm happy to move adjournment and resume this in the morning.

**The Chair:** The committee will stand adjourned till 10 o'clock tomorrow morning.

The committee adjourned at 1706.











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## STANDING COMMITTEE ON GENERAL GOVERNMENT

\***Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

\***Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

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Dadamo, George (Windsor-Sandwich ND)

\*Fletcher, Derek (Guelph ND)

Grandmaître, Bernard (Ottawa East/-Est L)

Johnson, David (Don Mills PC)

\*Mammoliti, George (Yorkview ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

\*Wessenger, Paul (Simcoe Centre ND)

\*White, Drummond (Durham Centre ND)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Conway, Sean G. (Renfrew North/-Nord L) for Mr Grandmaître

Fawcett, Joan M. (Northumberland L) for Mr Sorbara

Marland, Margaret (Mississauga South/-Sud PC) for Mr David Johnson

Mills, Gordon (Durham East/-Est ND) for Mr Morrow

Owens, Stephen (Scarborough Centre ND) for Mr Mammoliti

Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND) for Mr Dadamo

### **Also taking part / Autres participants et participantes:**

Stockwell, Chris (Etobicoke West/-Ouest PC)

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Richmond, Jerry, research officer, Legislative Research Service



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## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 17 February 1994

# Journal des débats (Hansard)

Jeudi 17 février 1994

## Standing committee on general government

Land Lease Statute Law  
Amendment Act, 1993

## Comité permanent des affaires gouvernementales

Loi de 1993 modifiant des lois  
en ce qui concerne les terrains à bail

Chair: Michael A. Brown  
Clerk: Franco Carrozza

Président : Michael A. Brown  
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

Thursday 17 February 1994

The committee met at 1020 in the Humber Room, Macdonald Block, Toronto.

LAND LEASE STATUTE LAW  
AMENDMENT ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE LES TERRAINS À BAIL

Consideration of Bill 21, An Act to amend certain Acts with respect to Land Leases / Projet de loi 21, Loi modifiant certaines lois en ce qui concerne les terrains à bail.

**The Chair (Mr Michael A. Brown):** The standing committee on general government will come to order. The business of the committee is to consider Bill 21, An Act to amend certain Acts with respect to Land Leases, in clause-by-clause review. Yesterday, when the day concluded, Mr Conway was speaking, making an opening statement regarding the bill. I also have Mr Fletcher on my list, and then we will conclude with the closing remarks by Mr Wessinger.

**Mr Sean G. Conway (Renfrew North):** I won't prolong this unduly, but I do want to pick up where I left off yesterday, and I've had the benefit of some material happily provided by the legislative library in the interval. My friend Mr Mills has just left us for the moment.

You may recall that I was making the point yesterday, and I want to return to it today, that we are engaged here in I think a very interesting and important but rather unusual exercise, and that is that on a matter of significant, province-wide policy import, we have a private member's bill, advanced in the name of Mr Wessinger, the New Democratic government member for Simcoe Centre, that is in effect a government bill.

I was asking the library for some information. Mr Welch is not here. He is with the Ministry of Housing, a very able young man who some years ago was a legislative intern and I know of his interest in these matters. In fact we were talking at the end of the day yesterday about precedents. I think I said yesterday in this connection that I'm sure I could be contradicted, that there were cases in the past where this might have been done; I just couldn't remember any.

Thanks to the Clerk's office and the library, I have a memorandum which has been prepared which indicates that since 1949 there have been 15 private members' bills which have received royal assent. Obviously I was not around in 1949 when Mr Gordon B. Ellis advanced Bill 138, the Municipal Amendment Act, which was given royal assent on April Fool's Day of that year, 1949. But when I look at the list, I do recognize a number of these. Let me just cite a couple.

Mr Arnott's not here, but his mentor and predecessor, Jack Johnson, the former member for Wellington-Dufferin-Peel, is on the list. I remember this case. It was a private member's bill, Bill 10, the Election Finances Reform Amendment Act of 1977, advanced by Mr Johnson, the then government member, the Progressive

Conservative member for Wellington-Dufferin-Peel, and it was royally assented to on April 25, 1977. That bill was something really very specific and very useful. It made a very slight adjustment in the election expenses reform legislation to provide for the fact that some weekly newspapers publish not on a Wednesday but on a Tuesday. All of us, certainly from the rural communities, thought it was a hell of a good idea and it was agreed to. That's one kind of example.

There are others on this list. The redoubtable Yuri Shymko in 1986 had a bill entitled Bill 146, the Geographic Township of Hansen Act, royally assented to, again a very, very specific issue, in that case I think having just to do with nomenclature.

Mr Welch from the Housing ministry yesterday raised this case: David Reville, now éminence noire in the Premier's office but then a very capable member for Riverdale, advanced Bill 10, the Landlord and Tenant Amendment Act of 1987. That received royal assent on June 29, 1987. I don't remember that, and that may in fact be a case where there was some more substantive policy question. I can't remember the specifics and I didn't have an opportunity overnight.

What I'm saying is that if I look at this list of 15, the ones I know are almost in all cases very, very specific, very local and in most cases very minor, not to in any way disparage the good intent. I simply raise that because, as I have said earlier, what we have in this enterprise—and it is timely, it is undoubtedly important and there is no question that while I bring no expertise to this, I have listened very carefully to the arguments that have been advanced by the people who have appeared. There is no question in my mind that Mr Wessinger is clearly on to something here, like his predecessor Mr Owen, and others, but those two gentlemen in particular. This tells me, for example, that the problem is perhaps most serious in a part of Simcoe county. When I see two members advancing this kind of legislation, I'm just inclined to think, well, there are problems in a number of places but it appears that there's a particular irritation or a particular difficulty in Simcoe.

I give credit entirely to Mr Wessinger for what he's done. There is no doubt, as I've said earlier, there is a problem here. The question is, how do we deal with it? I understand as well the arguments that have been put by people, those tenants particularly who've come and said, "Listen, we are in a terrible"—those two deputants from Orillia or was it Huntsville?

**Mr Gordon Mills (Durham East):** Barrie.

**Mr Conway:** Just about all the people I've heard, from a tenant's point of view, would make you think that today is too late, and I recognize that. I've certainly got some real sympathy for those people. But the question is, there is a whole bunch of people out there we have not heard from.

In the nature of things, a private member's bill is just that. It is an item that is advanced by a private member that is not imagined in our tradition and in our system to be what this is clearly becoming and what it has become, which is a government initiative.

Now, the partisan in me says: "Let it happen. Let a thousand flowers bloom." It's not going to be on my head that the unanticipated consequences and all the unimagined aspects of this policy fall. I would not want to be Ms Gigantes or her staff, because I have a feeling that if this initiative carries in this fashion, six months from now—and it's not because people here aren't going to be well intentioned and want to do the right thing. But as I said yesterday, my experience in government suggests to me—and to me only; it may be entirely different with other people—that we've heard from, I don't know, what, how many deputants, maybe 25? But my guess is that for every one who came, there are at least 10 out there who didn't come, and of that group, there probably is 80% who don't even know what we're about or what we're up to.

I do want to make the point that this is irregular in this respect as well, that a normal government bill, which this now clearly is, goes through a fairly detailed process of development and advertisement.

I know if you're not in government, you think, "Well, doesn't everybody know?" You know, people like Joan Fawcett and Gordie Mills are always introducing private bills, and there are people out there who think they're government initiatives. They're not, and you spend a fair bit of your time in government saying, "Well, no." Most people don't really know how this system works, and I don't mean that as a disparagement; it's just life. They've got kids to raise and jobs to keep and mortgages to pay. They're not worried about the intricacies of our system.

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But I just want to make the point that in this respect, there was no advertisement to speak of. The deputants whom we have received have come out of their own interest and out of their own encouragement, undoubtedly from members of the committee and others, and just judging from the people we've heard, I suspect the members from Simcoe and Durham East have been doing their job and saying: "Listen, I've got a private member's bill coming before the general government committee that arises out of specific concerns you've brought to my attention. Clear your schedule for the second or third week of February, because we are going to be dealing with that."

That's all right and proper, but there was no general advertisement out there to tell people in Thunder Bay, Ontario, or in Chatham, Ontario, or in Cornwall, Ontario, that in fact this bill is proceeding and it is no longer really a private member's bill, or put another way, there is a very real prospect that this bill is going to carry.

If I were a clerk-treasurer in Renfrew county and I was getting through the normal channels, as I do, the screed of paper from Queen's Park, I'd be going: "All right, so what are they up to this week? What are the government bills?" That's where I'd really turn my attention: "What are the government initiatives? What are those carping

oppositionists whining about this week?" I'd give that all the attention it deserves, and then I'd probably look at the list of private members' initiatives. I've been around a while as the clerk-treasurer of township X or city Y, and I'd say, "Oh, well, that's interesting. Wilson's going to do that and Fawcett's going to do that and Brown is going to do that. That's all interesting," and not pay any attention to it. I would have no clue that Bill 21 is in fact an unusual private member's bill because it is going to move forward and I should pay much more attention to that than Conway's amendment to the time of day act or whatever else.

I say this very seriously, because there are 838 municipalities out there, and I am telling you, there will be a goodly number of them that are going to be surprised that this is happening.

Again, this is the government's call. If this is going to proceed, as I think it will, hey, that's the thing about a good, healthy majority government. You've got the numbers, you pass the bills and you take all the credit, and gee whiz, you might just get some of the want of credit too.

But I think that, as we've heard from some of the people here, there is more to this story than perhaps we understand, because none of us is really an expert. Certainly Mr Wessinger and Mr Mills and Mrs Fawcett know more than I do about it, but I just have this sick, sinking feeling that we are about something that (a) is irregular and (b) is going to come as a big surprise to a lot of people, who may in fact agree with a lot of this and say, "But listen, why didn't I get a chance to get my oar in the water? I didn't get a letter from anybody, certainly in official circles, telling me that this was about—have you any idea the mess I've got in my mobile home park?" or "Didn't you people understand that there were two or three categories of these issues?"

I said it yesterday and I'll repeat it again: The worry I have is that we may not solve some of the worst problems that are out there. It may be that some of those are simply not solvable, but I just simply raise that point and I leave it there.

There are a couple of other things that I wanted to mention. I remember in the mid-1970s when the then Progressive Conservative government of the sainted William Grenville Davis, of progressive variety, was under great pressure from the community to address a relatively new development in real estate in this province called condominiums. A very good fellow, a good friend of mine named Darwin Kealey, had made one very, very close run at a very prominent Ottawa politician named Evelyn Gigantes and she had defeated him, but he was lining up for a second run, I think it was in 1977. He was asked by the then government of the day to undertake an inquiry into condominium situations and he produced a document that then led to legislation, and I can't remember—somebody can correct me on this—it came I think in the late 1970s, perhaps even a bit later than that. There was quite a lot of debate, and when I was listening to a lot of the deputants in the last couple of days, I thought, boy, this reminds me a lot of that, because the whole concept of condominiums was relatively new to the



province and certainly the legislative framework we had in the 1950s and 1960s did not anticipate that kind of freehold property, if that's even the right phrase.

But the process took some time. There had to be, even after the original legislation was passed, some amendment, as I recall, either legislatively or in regulations. It was very similar to this, people saying, "Don't you know what's going on out there?" Identifying the problem was, in a sense, the easy part; finding the solution was a bit more complicated.

As legislators, it's clear we have to do something. I want to make that very clear. I think it is fair for my friends opposite to chastise those of us who were in a previous administration for not doing more. I for one, quite frankly, would really like to see that interministerial report. I understand why it's embargoed. I suspect there's no great lurking secret in it; there never are, really, in those things. I just would like to see what kind of issues were identified by that group of people.

We've heard a number of people come before the committee and say, "I was asked in 1989 to join this parade and I was pleased to do so and I worked with tenants' representatives, the real estate industry, property owners, government, the municipal representatives and we spent a year," or whatever it was, "and we produced this paper." Then, of course, the government changed and it sort of just stopped.

I'd really like to see that, just to see whether or not in that—because that was, to be frank, a more representative group than this legislative committee could ever hope to be, because it was a different enterprise. It was specifically focused on this problem or parts of this problem. Just before I did anything—and I want to do something—I'd like to have the benefit of that. What did they find that we haven't thought about? Maybe we're right on the mark, but what if we're not? What if there is lurking out there something, and I presume that the ministry people have in fact—they probably can't access that report, but they can certainly talk to the people who are associated with it. I'm just assuming that since this bill is taking on more and more of a government cast that somebody has in fact satisfied themselves that there is nothing incompatible with this and some of the principal findings of that, but I don't know that. I'd like, at some point, somebody from the ministry to give us some comfort around that.

**Mr George Mammoliti (Yorkview):** What are you suggesting, Sean?

**Mr Conway:** Listen, I'll conclude my remarks with the following: I sat here for two or three days. I've heard a lot of testimony. There is a problem; there is no doubt about that. It should be addressed. I am deeply concerned that we, with the best of intentions, are addressing it in a way that is going to mislead a lot of people, because there are a vast majority of people out there who have no idea what we're about, and even people who know what we're about will be thinking, "It's a private member's bill and Wessinger is going to do a good job; he's really going to put the heat on the government and the Legislature and we're going to see a government initiative." They're getting essentially a government initiative

without there being any advertising, any public admission of that fact.

I pore over the daily press to see whether or not there are reports of the very timely and thoughtful deliberations of this committee. Outside of the *Orono Weekly Times*, I haven't seen a great deal. I say to the members opposite and to the committee generally, I think it is a real issue for me that we've now got a government initiative that is not understood as such outside of this room.

What would I like? I would like to see a government initiative up front. I would very much prefer, building on the work this committee has done, a report back to the Legislature that says: "There is agreement on all sides that in fact there are some urgent and pressing problems in this part of the whole housing industry, that they cry out for redress. In fact, some of them are more urgent than others. We are serving notice, on the basis of the very excellent hearings held around the Wessinger bill, Bill 21, that we are going to move forward with a government initiative that is going to carry this year to address the following components of that problem."

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In fact, I don't think it would be unreasonable if the government were to say to the opposition House leaders: "We are going to move forward on the basis of what has been accomplished this year. We are going to move forward and we're going to conclude this process in the spring session or certainly by the end of the calendar year 1994." I would just like to see a government initiative, clearly advertised as such, that addresses the really serious aspects about which I think we all have a common concern.

That's essentially my main point. I am deeply, deeply distressed, again. I know why this happens. I give Paul a great deal of credit; it's not easy to do these private members' bills. It's not particularly easy to do it. It could not have been very difficult, I dare say, for Yuri Shymko to work up the background research for the Geographic Township of Hansen Act. I don't think Normie Sterling burned too much of the midnight oil in 1990 as he prepared the Ontario Food Terminal Amendment Act. I don't mean to discount his efforts, but my guess is that was a very specific, discrete legislative activity. This is not; this is a qualitatively different thing.

Let's say I'm out there in Wilmot Creek or someplace else and I've got Bill 21 and I think, "That's interesting." I don't even know it's a government bill, but I've read it and I sort of like this or that about it. I don't know what I've got; I'm no expert. All I know is I have got an Eaton's catalogue of amendments, the cumulative effect of which may in fact produce for me an entirely different bill than the one I have in my hand, which is Bill 21. I don't know that. I say that both rhetorically and honestly, because I'm not sufficiently expert. We're going to have a very detailed examination, presumably, of this.

What about poor Mr Maxfield and some of these others, or these tenants who were here? They've got Bill 21. I know Mr Mills and others have been working with people like Mr Maxfield, who has also spoken to me and my colleagues about this business of the signs and how we do it. But, again, I have a bill and I've got a whole

series of amendments. It's maybe like a bit of Abbott and Costello. I don't know who's on first and who's on second, and the game's just begun. I'm being a bit facetious there, but I'm trying to be frank.

We want to do the right thing and I hope we will, but I want to be as clear and honest as I can about what we are about. I really would like to try to solve the most serious of the problems. Let me say—this is sort of impolitic of me; I mean, the older I get around here, the more cranky I'm becoming on some things—some of the problems I hear on both the management side and the tenant side, I just sit there and go, you know, in this Godforsaken rights-driven society of ours, we do have some responsibilities.

I've done some stupid things in my time, really stupid things when I think about them. I guess the question I have to ask myself is, at what point do my neighbours say, "Gee whiz, what we need is a full-blown, publicly paid-for redress of your stupidity"? I don't want to be too harsh, because I do think there are a lot of very legitimate problems about which we can do something, but I do recognize, listening to some of the problems into which these owners and tenants have gotten themselves, that I don't know whether there's any solution for some of those problems. I hope there is, and I really want to work constructively to that end, but as one of my constituents likes to say, what was the problem for which this is the solution?

**The Chair:** Thank you, Mr Conway. Mr Fletcher.

**Mr Derek Fletcher (Guelph):** Oh, it's all right. I think I'll pass.

**Mr Mills:** Can I just make a comment?

**The Chair:** No, actually, you can't. Mr Wessinger.

**Mr Paul Wessinger (Simcoe Centre):** Yes, I would appreciate this opportunity to sum up and respond. First of all, I should like to set the record very straight for this committee and all committee members. This bill is my bill; it bears my responsibility. It is not a government bill. Fortunately, it does have the support of a large number of members of caucus, but it does not have the endorsement of the government; it has endorsement of a lot of caucus members.

How did I happen to arrive at this bill? I think I should set that record straight too. I practised law in the Barrie area for over 20 years, doing a great deal of real estate law. During that period, I've had a lot of dealings with people who have bought and sold mobile homes, who have bought land-lease community homes. I've encountered, during my practice, a considerable number of problems with respect to the abuse of power by owners of these parks with respect to trying to prohibit the marketability of these parks, the conflict of interest that has arisen by the owners of these parks also being the sellers of the mobile homes and putting their interests ahead of those people trying to market their homes.

I think things are improving; I will definitely concede that. In some of the more sophisticated homes, management has improved. But certainly in the mobile home park area, it has not improved, in my experience.

If you look at my riding, my riding has the largest

land-lease community in Ontario. As well, we heard about two mobile home parks where the home owners were threatened with loss of their equity. There's a third park that was also threatened in the past, but the situation there is on hold at the moment. If you look at Simcoe county, it has the largest number of mobile home owners in any county or region in Ontario. So I think it's well based why I brought this legislation.

Let me say that when I was first elected and I was told that I could bring a private member's bill, right at the beginning I started work on this bill, in 1990. I got to the stage of instructions to legislative counsel and asked for specific items to be included in the bill. At that time I was forced to draw back, because at that time I happened to be the parliamentary assistant to the Attorney General and since the Landlord and Tenant Act technically was under the provisions of the Attorney General—although, as far as the reality is concerned, the residential portion is under the Ministry of Housing, but it's technically under the Attorney General—I was told I could not proceed with the bill. I put it on the back burner.

I was encouraged when I thought maybe we'd have a government bill in this area. When it became apparent that this was not going to happen and I was in a different position, I resumed work on this bill. I'd like to say, first, it's my bill. I take complete responsibility for it. The Ministry of Housing has had some input, but perhaps if you'd looked at my original instructions, you would see I was much more ambitious than what we have in this bill.

I tend to be a pragmatist. I'm a lawyer. I want to solve problems. I will try to solve the problems however I can. I'll use the system as it exists to solve those problems. Sure, I'd like to see the system reformed, and I'll deal with that later, but I think it's important to deal with problems and meet real needs.

**Mr Conway:** And all billable time?

**Mr Wessinger:** I consider myself a pragmatist. I'm not tied up with tradition or, "This has never been done before," etc.

I'd like to also talk about what I'm trying to do here. I'm trying to give those home owners who happen to own mobile homes, or who happen to own land-lease community homes, some of the same rights that other home owners have. Right now, people who are home owners of mobile homes and who are owners of land-lease community homes have diminished rights—substantially diminished rights. I think home ownership is one of the prime values in our society. I think if you look at the question of security of your tenure of where you live, or your health and your food and your job, those are the basic rights. I'm dealing with something that's very important to society, something of the highest value, so I think this is a very important bill.

What does this bill do? I don't think it's quite as extensive as Mr Conway's making it out, or some other people are making it out. If you look at what it's doing, there are, I believe, four or five points.

First of all, what it's doing is very substantial—and I will agree; it's the first priority I've had because of the



danger of people losing the equity in their home; I've put that at the first priority and I will make no apologies for that—is that I'm bringing home owners under the protection of the Rental Housing Protection Act. Why am I doing that? Because at present, people who live in mobile homes have no protection from losing their home in the event the owner wishes to change the use of the land to another use, or there are other reasons he can do it too with respect to environmental matters. He can close the home.

So these people, under the present situation, have no legal protection. I think that's a major gaffe in our law. I think I'm correcting a major gaffe in the law by putting the interests of the owner of a mobile home ahead of the interests of a property owner to redevelop his lands.

1050

This doesn't prevent the redevelopment of lands. Let's just talk about the red herring that some people might throw out. It just means that if a landlord wants to redevelop his lands he's going to have to negotiate with the home owners on the mobile homes and they're going to get some compensation for their equity and not have their equity destroyed. I don't believe in allowing people to develop their lands and destroy the equity of people who own mobile homes. That, to me, is very straightforward, very important. That's the first point of the bill.

The second point of the bill is that it makes the Landlord and Tenant Act apply to land-lease communities. The act presently applies to mobile home parks, but for some unknown reason, when the previous government—and Mr Conway formed part of that government—passed the legislation with respect to bringing mobile home parks under the provisions of the Landlord and Tenant Act, it left out land-lease community homes. I think it was a technical error by bureaucracies. I believe that bureaucracies can be helpful, but I think it requires the input and the combination of working together, both politicians and bureaucracies. Leave either one on their own and they're dangerous, but working together you can achieve something significant.

What it also does is adds some specific rights. First of all, it brings land-lease communities under the Landlord and Tenant Act. It adds some specific rights. It says if a landlord is going to refuse to consent to assign the lease—in other words, prevent the home owner from selling or marketing his unit—the landlord has to put the reasons in writing. Why is that necessary? Well, let me tell you from my experience that these types of owners, a lot of them are very bad owners, and they will give very improper reasons, illegal reasons, for refusing to consent. Forcing them to put it in writing makes good sense because it would eliminate all these illegal reasons and it will eliminate a lot of unnecessary court applications, which will also be a saving to the treasury, as well as be a good protection to the owners of the homes.

Secondly, it deals with the first right of refusal. My original bill outlawed the first right of refusal because I wanted to equate the rights of the person who owns a land-lease community home or a mobile home with those of an ordinary home owner. But we listened to the representations; there seems to be a general consensus

among owners of parks and among owners of mobile homes in land-lease communities that a first right of refusal is satisfactory, based on a 72-hour provision and on the same terms and conditions in price. The amendment has been prepared to change my bill in that regard and I think that's one of the benefits of these hearings.

Thirdly, the provision with respect to signs was again trying to equate the right of a person who owns a home to a person who owns a mobile home or a land-lease community home by giving the same rights that an ordinary home owner has to put up a sign. Again, we're going to have some discussion on that and we'll see what happens with the bill.

Fourthly, I'd put in the reserve fund; this is one I'm prepared to drop, basically because I'm persuaded by the arguments with respect to the fact that having a reserve fund for one type of situation and not another is very problematic. It's a very complex area and I will even concede to Mr Conway that perhaps this is an area that if you're going to do a reserve fund you probably do need the expertise of the Ministry of Housing in developing the appropriate specifics of it. I think it's a problematic area so I'm prepared to drop it.

Lastly, what I have done under the Planning Act was a very simple amendment. It's really to say, "Hey, I've seen a lot of very poorly planned and developed mobile home parks in this province." You look at all the environmental problems, you look at the problems with respect to roads, you look at the problems with respect to all these services and you say, "Well, something has to be done." I've said they have to be under site plan control, which I think is a very appropriate remedy.

That is what my bill is doing. It's a little more ambitious than the normal private member's bill, but I think it's still within the realm of that area. It's not a comprehensive legislation. Let me just deal with some of the comments the opposition members have made. Some of them said, "Oh, we should have a comprehensive bill, including the whole area." Well, I can imagine the comments that would be brought if I had brought a comprehensive bill as a private member's bill. I would like to do it, but—

**Mrs Margaret Marland (Mississauga South):** Who said that? No one said that.

**Mr Wessinger:** —but certainly that has been one of the positions, criticisms of my bill, that we should have a comprehensive bill. Yes, I agree, we do need a comprehensive legislation in the long term and I'm sure I'm as Utopian as the members of the opposition parties here, but I believe in solving problems in the short run because, as John Maynard Keynes says, "In the long run, we'll all be dead," and in the long term, mobile home owners will lose equity in their homes and will have fewer rights. So I say let's be pragmatic and deal with this matter.

That's one comment I heard; second, the comment that the bill is not balanced, according to the member for Mississauga South. I think the only thing that would make the member for Mississauga South think anything was balanced is to return to the era of John Locke in 18th-century England, where land property rights pre-

vailed over other rights. I think the property rights of home owners here have more importance than land property rights.

**Mr Marland:** He likes that, he thinks he's funny now.

**Interjection:** He is.

**The Chair:** Order, order. Mr Wessenger has the floor.

**Mr Wessenger:** Even after my legislation, we're still going to have the situation of mobile home owners and land-lease community owners—they'll still not have exactly equal rights to home owners, but it will be a major improvement. It'll give them greater security of tenure; it'll give them greater ability to market their homes and greater ability to protect their equity.

Now I'd like to deal with the issue raised by Mr Conway, that private members ought not to do anything significant in the legislation area. I profoundly disagree with that point of view. I profoundly disagree with the fact that the Legislature does so little. I would like to see it do more. I am very much in favour of legislative reform and I'll be quite frank about this. I would like to see the process changed. It wasn't my decision we didn't advertise; I would have liked to advertise. This is the decision of a subcommittee of which I'm not a member, a committee of which I was not here to deal with approving the subcommittee report.

**Mr Mammoliti:** But your voice was there.

**Mr Wessenger:** I would prefer a different process. I would have preferred more time to have hearings, I would have preferred more time for clause-by-clause study, and I think we ought to look at changing the legislative process to give members of the Legislature who have an issue to prepare meaningful bills, the ability to try to get them processed through. Maybe an idea might be to allocate additional time in the Legislature, additional time in committee for private members' bills to be dealt with in a different way.

I don't even like the process in which bills go through. I think we can improve it that way with respect to the question of—the technical rules inhibit, sometimes, solutions to problems. That's what I have to say to Mr Conway.

I don't think the changes are as complex as he makes out. I'm quite happy to answer any questions on impact, or try to, or if he wants the opinion of the Ministry of Housing here, that's fine. I think I'm quite knowledgeable on this area. I've done a great deal of work and energy on this bill. I spent a great deal of time dealing with it and I'm going to say now I appreciate the input I've had in the hearings. We've made some changes in the bill and I'm sure we'll come up with an improved bill as a result of the people presenting.

I also was struck—and another thing of these hearings is that listening to some of the owners, like Mr Rice in my own area indicating that he could support my bill, and he's an owner, as long as he could deal with the sign issue. The Ontario land-lease federation, again, is very responsible with respect to its comments. This bill seems to have, I would suggest, support from both sides.

What I'm saying is, let's get on with the job, let's pass

this legislation, let's get it done as quickly as possible so we can protect those people out there who are going to lose their equity. I know they're not large numbers, but they're people; they count.

I'm a lawyer and I'm used to dealing on the basis of clients. Well, I think constituents are the same as clients and I wish we all would look at constituents the same as clients. I would ask people to discard their partisanship and support this bill and let me get it through. Thank you.

**Mrs Marland:** Mr Chairman, I have a letter here—

**The Chair:** Do you have a point of—

**Mr Wessenger:** And no, Margaret, I'm not going to withdraw the bill.

1100

**Mrs Marland:** I have a letter here that I find it necessary to ask Mr Wessenger about. The letter is dated January 16, 1994. It's obviously a—

**The Chair:** Mrs Marland, we're about to commence clause-by-clause. There will be ample opportunity during clause-by-clause for members to raise particular issues about particular items. We will start with clause-by-clause.

**Mrs Marland:** All right, then I'll ask a procedural question.

**The Chair:** That's fine. If you have a procedural point of order, I take it.

**Mrs Marland:** In this letter—this is on procedure. In this letter—on procedure, Mr Chairman, you have to hear me—the mover of the bill says: "I am in the opinion that the committee should travel outside the Toronto area for the hearings. I've suggested to the committee that we travel to Cobourg, London and Barrie. I feel quite strongly that one day is not sufficient for the hearings." He's suggesting, in his opinion, that we travel. I want to ask if he has changed his mind in the past month.

**Mr Fletcher:** The subcommittee decided that. It's not him.

**The Chair:** To be clear, the committee decided what would happen when it adopted the subcommittee report. The committee restricted the number of days and the amount of time by a motion of the Legislature.

**Mr Fletcher:** You weren't here for that part of it.

**Mrs Marland:** No, I wasn't. And there was a decision that there would not be any of these areas covered since the—

**The Chair:** The motion of the subcommittee, which was adopted by a motion of the committee, decided this issue.

**Mrs Marland:** There was a subcommittee meeting early in December that I attended, so it must have been a subcommittee meeting after that? All right.

The other question on procedure is that this wonderful yellow package—and I do appreciate having it in yellow because it does stand out from the other piles of papers on our desks—are these 33 amendments all Mr Wessenger's amendments?

**The Chair:** I suppose they're actually no one's



amendments until they're moved, but maybe the clerk could be helpful.

**Clerk of the Committee (Mr Franco Carrozza):** The amendments you have in the yellow package, it only contains two amendments—they are not from Mr Wessinger—and those are on section 8 and section 24.

**Mr Fletcher:** The others are from Gary Wilson.

**Mrs Marland:** Okay. Can anybody tell me what number those are? It's also helpful, whoever has numbered these pages, that they are numbered, and I appreciate that. Where did those two amendments come from that didn't come from Mr Wessinger?

**Clerk of the Committee:** The first question, if I may, section 8 is number 6. Number 30 is the other one.

**Mrs Marland:** Number 30, which is section 24.

**Clerk of the Committee:** Yes.

**Mrs Marland:** And where did those two amendments come from?

**Clerk of the Committee:** The two were given to me by the staff of Mr Wilson.

**Mrs Marland:** Mr Wilson, are these two amendments from the Minister of Housing?

**Mr Gary Wilson (Kingston and The Islands):** I moved them after consultation with people on the staff and Mr Wessinger.

**Mr Fletcher:** Do they come from the Minister of Housing, yes or no?

**Mr Gary Wilson:** Yes.

**Mrs Marland:** Those two amendments are from the Minister of Housing?

**Mr Fletcher:** Ministry of Housing.

**Mr Gary Wilson:** Yes, the Ministry of Housing; it's not directly from the minister.

**Mrs Marland:** No, but they're from the Ministry of Housing?

**Mr Gary Wilson:** They're after consultation, that's right.

**Mr Conway:** Is there some extraterrestrial, extragalactic body?

**Mrs Marland:** Yes.

**Mr Hans Daigeler (Nepean):** Gary Wilson. He's called Gary Wilson.

*Interjections.*

**Mr Conway:** My only point is—

**The Chair:** Order. Order.

**Mr Conway:** The Minister of Housing must accept responsibility for the things that are advanced by the ministry.

**The Chair:** Order. I have a number of members on the list for this point.

**Mrs Marland:** Mr Wilson—

**Mr Gary Wilson:** It is through the Chair.

**Mrs Marland:** Through the Chair to Mr Wilson, the parliamentary assistant to the Minister of Housing: Are these two amendments from the Minister of Housing?

**Mr Gary Wilson:** Yes, they are.

**Mrs Marland:** Thank you. Do you have amendments other than these two?

**Mr Gary Wilson:** I think there are three amendments that we're putting forward.

**Mrs Marland:** Oh, good. What's the other one?

**Mr Gary Wilson:** They're 26, 27 and 33.

**Mrs Marland:** Are those sections or page numbers?

**Mr Gary Wilson:** Sorry. They're page numbers as they're in the—

**Mrs Marland:** In the yellow package?

**Mr Gary Wilson:** Yes.

**Mrs Marland:** Page 26?

**Mr Gary Wilson:** Yes.

**Mrs Marland:** To subsection 21(9)?

**Mr Gary Wilson:** That's right.

**Mrs Marland:** That's from the Minister of Housing as well?

**Mr Gary Wilson:** Yes. Sections 21 and 22 on page 27. That's circled on it.

**Mrs Marland:** Okay, so it's page 26. Now it's page 27? Okay. Is there anything else from the Minister of Housing?

**Mr Gary Wilson:** The very last page: 33.

**Mrs Marland:** So how many is this altogether now, then? Is that five altogether or six? How many amendments altogether from the Minister of Housing?

**Mr Gary Wilson:** It's three, the three that I gave. The first one is on page 26.

**Mrs Marland:** Okay. But what about the first two that were identified? How about on page 6? Is that from the Minister of Housing?

**Mr Gary Wilson:** No.

**Mrs Marland:** But those were received by the clerk from you.

**Mr Fletcher:** Gary, did you say three?

**Mr Gary Wilson:** I said three, yes.

**Mrs Marland:** Okay, then you gave the clerk two other amendments as well?

**Mr Gary Wilson:** Not that I'm aware of. I know I'm moving three, the ones I listed.

**Clerk of the Committee:** Mr Wilson has identified three different ones which I was not given by Mr Wilson. They were given to me by Mr Wessinger. The only two that I received from the ministry staff were to section 8, which is number 6, and to section 24. So that's a total of five.

**Mr Conway:** The second one, Franco, was—

**Clerk of the Committee:** Page 6. The other is on—

**Mrs Marland:** The other one is page 30.

**Clerk of the Committee:** —page 30, which is to section 24.

**Mrs Marland:** Through the Chair to Mr Wilson, are you familiar with the other two?

**Mr Gary Wilson:** Not really. No, I'm not.

**Mrs Marland:** So we now have amendments brought

to the committee on this bill that the parliamentary assistant for Housing isn't familiar with and didn't even know were here.

**Mr Gary Wilson:** Well, I shouldn't say that.

**Mrs Marland:** So who's taking ownership for these two amendments?

**Mr Gary Wilson:** Mr Wessinger.

**The Chair:** I think the way we could do this probably most properly is to go through the bill clause by clause, and an amendment is moved or not moved. Just because a member has a particular amendment in the package doesn't mean it will actually be presented. They're actually there more for advice than for fact. The Chair doesn't recognize any amendments until they're there. I do believe it's helpful for members to know the source of the amendment just so that as they're studying the bill they understand the import of what's happening. But I would clarify, there is no amendment until someone actually makes it.

**Mrs Marland:** I appreciate that, Mr Chair, and that's a fair comment. The point that I'm making, however, is that as we have been saying—you know, the mikes are a little loud this morning. I was noticing that when Mr Wessinger was speaking.

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**Mr Wessinger:** I have a loud voice, Margaret.

**Mrs Marland:** Mine is a little loud too.

**The Chair:** Sometimes we don't need the mikes at all.

**Mrs Marland:** I know. I just hear it echoing a little. I'll try to talk a little more quietly so I don't drown everybody.

I just think that since we have been talking all along about the fact that this bill is some kind of hybrid at best and now we have—

**Mr Fletcher:** You should sit over here. Here you're getting an echo.

**Mrs Marland:** No, it's much better now. Thank you. Now we have five government amendments but the government doesn't want to take ownership of this bill and I think—

**Mr Mammoliti:** Margaret, just go on, please.

**Mrs Marland:** —this gets back into what Mr Conway was saying as well.

**The Chair:** Fine. Mr Mammoliti and Mr Conway wish to speak to the same point. Mr Mammoliti.

**Mr Mammoliti:** I just feel somewhat compelled to respond to a couple of points that were made about subcommittee meetings. I think what people should know is that when the subcommittee had made its decisions, it made the decisions as a subcommittee and reported it to the committee. The committee then took the recommendations from the subcommittee and adopted them.

Mr Conway brought up the point about advertising. I think it's important for every member to know that the point came up in subcommittee and we all agreed that one precedent plays a role with advertising and we needed to look at precedents, if I wasn't mistaken, in

terms of advertising before we can make that commitment. Mr Conway brought up the point about precedents in committee.

Secondly, the travel was talked about as well and that again precedents needed to be looked at for private members' bills and whether or not travel was affordable for the committee. We needed to look at the number of deputants who were in front of us and then decide on whether or not it was worthwhile to travel. The subcommittee reported and suggested to the committee that the travel wasn't necessary, and the committee agreed, and that advertising wasn't necessary, and the committee agreed.

So for us to bring this up now and talk about it as if it's some sort of a concern to everybody, I think I have a particular problem with that in view of the amount of discussion that has taken place both in subcommittee and, Ms Marland, you were there in subcommittee when we talked about this—

**Mrs Marland:** No. Excuse me.

**Mr Mammoliti:** —and then we brought it to committee and we talked about it there as well. So I wanted to get that on record because I get somewhat frustrated when we make an agreement in subcommittee, that when it comes to committee, the committee makes the agreements and then later on people are saying that it's some sort of a problem.

**The Chair:** Thank you, Mr Mammoliti. Mr Conway.

**Mr Conway:** Before we begin, just a couple of things, and with the committee's indulgence I want to perhaps ask Mr Wessinger again just before we begin the clause-by-clause, Mr Chairman, because I think it might be easier. It certainly will be for me and I was making some notes when Paul was speaking. I think it would be useful, before we begin the clause-by-clause, to have the sponsor of the bill again just so at least I'm clear what he highlighted, I thought very effectively, and I'd like him to kind of—

**Mr Wessinger:** I'll be happy to do that.

**Mr Conway:** —recapitulate in his view the essential policy ingredients that he seeks to achieve with Bill 21.

**The Chair:** I would actually prefer that if Mr Wessinger was to do that, he'd do that when we address section 1.

**Mr Wessinger:** Yes.

**Mr Conway:** All right. That's fair. That's fine. The other point I was going to make then—and I'm quite happy to have it done that way.

**The Chair:** I'm trying to work on Mrs Marland's point of order.

**Mr Conway:** The only other point I want to make and I want to restate is that I am delighted that the legislative activity is changing from some of the past. I've no problem with that and I just want to make that clear. I just think that we owe it to the world out there to be more clear that we are changing; that's all. I'm not suggesting anything. That private members' bills are now going to become more substantive I think is probably a good thing. It's going to be more complicated than people understand, but I don't have a problem with that.



But we owe it to the world out there; in fact, on matters like this I think we owe it to our colleagues, who don't understand, I think in the main, what this is. I'm going to be asking, on section 1, for example, the question again, is this an initiative, sponsored as it is by the member for Simcoe Centre, that is going to enjoy the support and favour of the government to the extent that we can imagine it receiving royal assent? Because in that event it is a different—

**The Chair:** Mr Conway, you are moving a little bit from the point of order. Mr White.

**Mr Drummond White (Durham Centre):** I just want to make reference again to what I had mentioned yesterday, and that is that I want to congratulate Mr Wessinger on the bill that he's bringing forth. We have heard it's a hybrid but I don't think it's essentially a hybrid. The issue of consultation which he's secured from the Ministry of Housing does not mean—

**The Chair:** We're starting to wander again and—

**Mr White:** —does not mean that he is—

**The Chair:** Order. The point of order Mrs Marland raised had to do—and I think it was valid, maybe not from the point of order part but at least for valid information for members—with which amendments were going to be advanced by the government, as I heard.

If we're going to get on with this clause-by-clause and actually do some work on the bill we're going to have to get at it.

**Mr White:** What I'm simply suggesting is that the motions or the amendments that will be put forth by Mr Wilson I think basically reflect some assistance. They are not a direction from the government. This is not an endorsement from the minister but rather a consultation and a help to Mr Wessinger in this area of public policy, and I again want to congratulate him and hope that democracy will continue to be forthcoming.

**Mrs Marland:** I would appreciate it if Mr Mammoliti might be willing to be a little more accurate about the subcommittee. In fairness, you obviously didn't hear the clerk confirm that I was not at the subcommittee where it was decided not to travel on this bill. I was at one subcommittee where you were asking that we advertise in North York and the Toronto papers for your bill—

**Mr Mammoliti:** That's not true. That's absolutely not true.

**Mrs Marland:** Pardon?

**Mr Mammoliti:** That's absolutely false.

*Interjections.*

**Mr Mammoliti:** We discussed both of the bills.

**Mrs Marland:** Yes, we did discuss both of the bills. But what I'm—

**Mr Mammoliti:** With regard to advertising as well.

**Mrs Marland:** But the point I'm making is on the decision about whether or not we would go to these communities that Mr Wessinger put in a letter on January 16, which was more than a month after the subcommittee that I attended. Apparently there was another subcommittee which I didn't attend and I think that's what the record should be showing.

**The Chair:** Thank you. Mr Daigeler, on a different point—

**Mr Daigeler:** Right. As you—

**The Chair:** Point of order, I presume.

**Mr Daigeler:** Well, to what I said yesterday, and you said I should bring it up again at the appropriate time and I think this is the appropriate time in the normal process.

I had indicated yesterday that I would appreciate some comments from the ministry. Normally, after the opening remarks we do hear from the ministry, from ministry officials, and since there are numerous questions that have been raised and since what we're all about is to try and bring about a good bill, it would seem to me proper to be able to ask some questions both of the representative of the ministry, who I guess is the parliamentary assistant, and officials from the ministry.

**The Chair:** Mr Wilson, on that point.

**Mr Gary Wilson:** I should point out that—

**The Chair:** Actually, I don't think that's a point of order. I would accept a motion asking that that happen.

**Mr Daigeler:** Do you require a motion then?

**The Chair:** I think so.

**Mr Daigeler:** Did you want a motion then?

**The Chair:** Yes.

**Mr Daigeler:** I move that we hear from representatives of the ministry regarding this bill.

**The Chair:** I think you've already spoken to it.

**Mr Daigeler:** Yes.

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**Mr Gary Wilson:** In the first place, that's not the normal approach. We would hear from the ministry on a government bill, at the beginning, before we have the public presentations. So in that sense, there's definitely a difference here, and I think that motion would have been in order at the beginning of the hearings, rather than now.

It has been pointed out that there are personnel from the ministry here, both legal and policy areas, and they're certainly willing to comment on the matters that have been raised. But I would suggest we should do it in the clause-by-clause, which is where we are now, and when these things arise, then we'll turn to them for the advice.

**The Chair:** Mr Conway on the motion.

**Mr Conway:** For people to talk about the usual procedure in this, I've got to tell you, is now becoming farcical, because this is a highly unusual procedure, though it may be highly desirable. But let me be clear: This is about as bizarre an environment as I have seen.

We just earlier today saw a situation whereby we have in our package some amendments, the parentage of which appears to be somewhat dubious. We will find out, as the Chairman rightly points out, when the amendment is put whether in fact there is a sponsor. At that point, if we have a bastard child, we will find out. But let me just say what I would like, and I'm kind of easy on this. Our system is a system of responsible government, and the "responsible" there means that at the end of the day somebody accepts responsibility for what is done in Her Majesty's name. I continue to be caught by a situation

where we have a bit of a fiction, I think. We've got a private member's bill that is clearly now a government initiative, and there's nothing wrong with that. But since that's what we've got—

**Mr Gary Wilson:** On a point of order, Mr Chair: Are we talking about the motion here? Mr Conway never mentioned the motion.

**Mr Conway:** Yes, I'm speaking to the motion and the role that the government and the minister—

**The Chair:** It's about as close as members usually get.

**Mr Mammoliti:** Sean, then if that's the case, what's the big deal?

**Mr Conway:** There's no point in giving this—

**Mr Mammoliti:** I think it's a precedent.

**Mr Conway:** I withdraw. We'll do it a different way.

**The Chair:** Mr Wessinger on the motion.

**Mr Wessinger:** I just want to say again that it's my bill. I have responsibility for it and I think that I have the responsibility to be carrying it. I think all questions should be directed to me, and if we need the assistance of some technical staff, if I can't answer any questions, I will certainly be prepared to ask them to clarify. But I think the questions should be directed to me and through me. It's my bill and I think that's the way the process should go.

**Mr Daigeler:** I appreciate what Mr Wessinger has said. It's not, as far as I'm concerned, a criticism towards the initiative that Mr Wessinger has put forward. But after all, if it's going to be adopted in the House, this is going to be an initiative in the Ministry of Housing. There's no running away from it. So in order for us to recommend to the House, which we're doing—we're recommending to the House—I certainly do want to know: How does the Minister of Housing, who, as Mr Conway says, is the ultimate person in this case in charge and the minister in charge of housing-related matters, feel about this?

**Mr Mammoliti:** They're not in charge of private members' bills.

**Mr Daigeler:** Of course they're not in charge of private members' bills. I know that, but—

**The Chair:** Through the Chair, Mr Daigeler.

**Mr Daigeler:** In order for me to recommend to the House, I would like to hear from representatives of the Ministry of Housing, including the parliamentary assistant, whether this bill is supported, how they view this matter, what are their other plans with regard to this whole question or the issues that have been raised. I think there are a number of reasonable questions that have to be asked, because ultimately this has to be approved in the House and will have to be an initiative that will enter the acts that are supported by the government.

I think it's most proper—as was done, by the way, on the bicycle helmets one, where the Ministry of Transportation was intimately involved in this and certainly had representatives who spoke and so on. So I don't see anything problematic or otherwise to hear from ministry representatives on this.

**Mrs Marland:** Mr Chairman, how are we going to play this charade? Are we going to have the ministry only step in when we're dealing with the ministry amendments? We've got ministry amendments here.

**Mr Gary Wilson:** Where are they?

**Mrs Marland:** You've just identified them.

**Mr Gary Wilson:** It's just the amendments; it's not the ministry.

**Mrs Marland:** They are—

**The Chair:** Mrs Marland, through the Chair; Mr Wilson, you can have your turn if you want to be on the list.

*Interjections.*

**Mrs Marland:** Mr Chair, I will talk to you because it's so difficult talking. I'm going to try to talk to you.

**Mr Gary Wilson:** Talk to the motion.

**Mrs Marland:** There are five amendments in here that are identified as coming from the ministry. Do you think we're clear on that?

**Mr Conway:** Don't press your luck, Margaret.

**Mrs Marland:** Okay. I support the motion because obviously what we're dealing with here is not entirely a private member's bill.

The other thing is, I would like some brilliant person at this table to tell me which ministry is going to enforce this dog's breakfast when it's passed in the House and proclaimed, other than the Ministry of Housing. So why shouldn't we have the Ministry of Housing staff sit here and answer questions? It's not going to be enforced by the Ministry of Health or the Ministry of Community and Social Services or the Ministry of Transportation. If this government chooses to have this bill passed under the guise of a private member's bill when actually it's a government bill, if that's what it wants to do and that's what happens, it will be enforced by the Ministry of Housing. I think it would be absurd to vote against having Ministry of Housing officials being able to sit at the table and answer questions about it. What is so spooky about that? Are you nervous about what your staff might say in answer to the questions?

**Mr Mills:** He's said that.

**Mrs Marland:** Well, then, why wouldn't you support having the ministry address this bill at this point, as the motion says?

**Mr Mills:** He's already said that.

**Mr Mammoliti:** I don't mean to take up a lot of time, but I've got a couple of mixed messages here that I'm receiving from a number of different members. I think that every point is quite legitimate and I don't want to sound like I want to write any of these points off.

Mr Conway talks about the process and talks about precedent as well in committee and the type of change that this might impose on committee meetings in the future. That's what I'm getting out of the message, anyway. What I'm not getting out of his message is whether he believes it's a negative change or whether it's a positive change. If this in essence is setting some sort of precedent, I believe quite firmly that even if this is a



first and even if this does set some sort of a precedent in committee, it will be a positive change to the way committee works and that this is, in my opinion, the definition—in answering Ms Marland's question, from what I can gather—of a private member's bill.

Some people are talking about the definition of a private member's bill and assume that this is not supposed to be a private member's bill. If these members can come out and talk about what the definition of a private member's bill is, then the argument, in my opinion, might be quite valid. But in my opinion, this is a private member's bill. A private member has decided—

**Mrs Marland:** Did you have government amendments to your Bill 95?

**Mr Mammoliti:** —to bring this forward through the process that is structured through the House.

**Mrs Marland:** Did he? I wasn't here, so I don't know.

**Mr Mammoliti:** Mr Chair, I think I'm bringing up some pretty good points and—

**The Chair:** You have the floor, Mr Mammoliti.

**Mr Mammoliti:** I hear some heckling from Ms Marland.

**Mrs Marland:** I asked you a question about your bill.

**Mr Mammoliti:** I think she can wait for her turn.

**Mrs Marland:** Okay, I'll have my turn.

**Mr Mammoliti:** Yes, if you don't mind, Margaret.

When we spoke even in subcommittee about the two private members' bills that were coming forward, we spoke about the amount of time that was allocated as well. With great respect to Ms Marland, she had, from what I can remember, spoken about the time that's required to deal with Bill 21 and perhaps needing a little more time.

**Mr Gary Wilson:** Don't go too far.

**Mrs Marland:** No, don't go too far.

**Mr Mammoliti:** This is something that we may want to, as a committee, talk to our House leaders about because while we had a concern about the amount of time that was allocated to both bills, the House leaders decided that they will take the recommendation of two weeks to deal with both and condense that into one to deal with both.

So this is something that I think this committee might want to do after the hearings, and that's of course to talk to the House leaders and say, "Look, we had a concern here about the allocated time for these bills in committee and you had decided to drop that to one as opposed to two weeks." I'm not sure whether that might be some sort of a solution. I know it's not a solution in terms of Mr Wessinger's bill, but it might be a solution in terms of future process for the committee and how subcommittee might be heard at the House leader level. Because in my opinion, that was the problem, and that's the problem that people keep raising, the amount of time that's being dealt with the bill.

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**Mr Gary Carr (Oakville South):** I realize I'm

coming to the debate a little bit late. You have suggested I did, Derek, so I did.

**Mr Conway:** Don't be shy; nobody else is here.

**Mr Carr:** I guess when you sit and listen to it—you wonder why people are cynical about the politicians and the process. I've been sitting here as a newcomer for a couple of hours now, running in and out for other subcommittees, and I'm still having a hard time figuring out what the heck we're doing here, where we're at with it.

Maybe that's just me, but when you sit here and look at this particular piece of legislation, the problem I see is I was contacted by some people who weren't even aware of it coming through. I think because it was a private member's bill, they didn't follow it, and there is a great deal of concern out there. I rushed around probably two days before the committee hearings started and met with people in Mrs Marland's office trying to get a handle on it. Some of the people in Housing were kind enough to then meet with some of the folks from my riding about this particular piece of legislation, because they did have some valid concerns, some amendments they would like to bring forward.

I don't know, in terms of the amendments coming forward, how much of that has been looked after in some of the amendments that are coming forward, and I don't care who brings them forward, whether it's the Ministry of Housing or Mr Wessinger. But I want to tell you that there are some very, very serious concerns out there from people. In the scheme of things, of course, not sitting on this bill, with the number of bills, I didn't take a whole lot of time initially to take a look at this bill. But when you see how it's going to affect people and their livelihoods, there's some major, major concern out there in this piece of legislation.

I am now going through some of these amendments that have been tabled to see how they can improve it. My suggestion with the whole thing, as somebody who's come in late to the game, I admit, is to go back and get it done properly. I cannot believe that in this day and age, we proceeded this way on a piece of legislation that's gone through and nobody knew about it. We've got some amendments from the Ministry of Housing. They're involved a little bit and then Mr Wessinger's involved. We don't know who brought this motion forward: Mr Wilson brought that, but it's on behalf of the Ministry of Housing; but no, maybe it was Mr Wessinger. Forgive me for sounding confusing, but it's little wonder people are cynical about the process.

**The Chair:** I feel compelled to be a little helpful and remind members that we're speaking to Mr Daigeler's motion to have the Ministry of Housing in.

**Mr Carr:** Now that I've done my introduction, just to see where I was coming from on this, just so you appreciated where I was at—

**The Chair:** I understand the background was important.

**Mrs Marland:** He's doing okay.

**Mr Carr:** I thought I was being brief. When I was first elected, I never said much.

**Mr Conway:** That is stretching the truth a bit.

**Mr Carr:** Now I lost my train of thought. Okay, getting back to where we are, that's the frustration we have with this. In the scheme of things, you can appreciate where the frustration is coming from the opposition side on this, because legitimately, we do have some major, major concerns.

With that, Mr Chairman, now that you've made me feel bad, I'll defer to someone else.

**The Chair:** I didn't intend to do that, Mr Carr.

**Mr Carr:** I know. You wouldn't do it intentionally.

**Mrs Marland:** I think that when we're talking about the uniqueness of this bill, obviously, if you introduce a bill with 24 sections and you bring in 28 amendments of your own and the government brings in five amendments, it has to tell you something about the bill. If the bill were well drafted in the first place, you wouldn't have to bring in—in my meagre nine years, as opposed to the 50 years that Mr Conway has been here, I have brought in a number of private bills and resolutions. I didn't bring in amendments, I can assure you.

**Mr Mammoliti:** None of them is on this list, Margaret. How come?

**Mrs Marland:** Because of how this bill has become so convoluted, you know what's interesting? We've got these 33 amendments—I better be sure I've got the right number. We've got 33 amendments here and on Tuesday morning, I think some of you may recall, I said to Mr Wessinger that I had finally received his amendments, which I had asked for, on Monday. All last week I asked for his amendments and all last week his staff told my staff they were coming. What happened was that I met with Mr Wessinger, I think it was Monday night. I said, "I need your amendments, Paul, because I want to be able to see if they address my concerns when I come to deal with the bill, and if they do"—Paul, you can confirm this—"I'm not going to take up legislative counsel time drafting the same amendments as they've drafted already, because there's an expense and a cost to that in terms of my staff time plus legislative counsel time."

Paul said, "You can have my amendments tomorrow morning." The next morning, my staff phoned to confirm that they had our fax number and they would send them. They not only didn't send them that day; they didn't send them any other day. Every day my staff phoned, at least twice a day, to ask for these amendments. Finally, on Friday, I'm getting cross with my staff now, and I'm saying—

**Mr Mills:** Is this to the motion?

**Mrs Marland:** Yes, it is, because it's pointing out why we need Mr Daigeler's amendment.

When I finally said to my staff, "Where are Mr Wessinger's amendments?" they said, "We still haven't got them." I said, "What is his office phone number?" I phone Mr Wessinger's Queen's Park office and I get this recording that says, "Our office is closed today because our staff are on a staff development day." It's rather interesting to have a staff development day on a Friday when we've got all these Rae days going on. That in itself was interesting.

But I thought, never mind; I'll phone his constituency

office. I phoned the constituency office; I get a different recording, a different message, which says, "Our office is closed today because our staff are at meetings outside of the office." So now I'm completely against the wall, because I can't even speak to either of his offices, any of his staff, because they've all got the day off.

Finally, I phoned the minister's office, I guess. Anyway, I've got it written down whom I spoke to. I said, "I need Mr Wessinger's home number because I need his amendments." I explained my frustration and then they said, "We can't give you his home number." I said, "We do exchange home numbers of our colleagues in the House." As far as I'm concerned, anybody in the House can have my home phone number; it's in the telephone book. I did say to the ministry person, in fairness to Paul, "I bet Mr Wessinger's number is listed in the book at his home, but I don't have a telephone directory for that area." The ministry wouldn't give me—

**Mr Gary Wilson:** You never thought of information?

**Mr Mammoliti:** Try 411. Because you're in Mississauga, they won't even charge you.

**Mrs Marland:** Because I don't know where Paul lives.

Anyway, the ministry was smart enough to get my message to Mr Wessinger. He phoned me on Friday night and said I would have the amendments. My office got the amendments on Monday and when I came in here on Tuesday morning, you will recall—and I know Jeanette knows this, because I went over to ask her for them Tuesday morning because, as fate now had it, I had the amendments in my office but one of my two staff who were handling it was off ill. I asked for a set of these amendments. It was now Tuesday. Then Paul tells me they're only draft amendments and he said—

**Mr Fletcher:** Until they're introduced.

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**Mrs Marland:** No, that isn't what he said. I wrote it down again. He said: "They're only draft amendments. My amendments may be changed." I can assure you that I have not studied these amendments and how they integrate with the bill, because I was not going to waste my time doing all this—a comparison and study as they fit in with each section of the bill—if they might be changed again.

The point I'm making in support of this motion is that this is the mess we are in. Again, I'm owning up honestly. I don't know how many people would come in and say they haven't read how these amendments integrate with the bill. I'm telling you I haven't done it, because I wasn't going to do it and then have changes and not be able to follow it.

That's the reason that we need some help from the ministry staff to tell us what's going on, because I know for a fact that the ministry staff—and certainly the minister's staff, because we saw, as I said yesterday, these butterflies fluttering around Mr Wessinger. Mr Wessinger disappeared for a briefing yesterday with the staff, which is fine, I understand all that, but why should Mr Wessinger have the advantage of that briefing and not us? That's what Mr Daigeler's motion is about. He



wants a briefing from the minister's staff, and that's only fair, in my opinion.

**Mr Mammoliti:** Margaret, when you phoned the office to ask for his phone number, did you ask for a briefing as well from the ministry?

**The Chair:** You've completed, Mrs Marland?

**Mrs Marland:** No.

**Mr Mammoliti:** Well, why not?

**The Chair:** No, no, no—

**Mrs Marland:** Because I was trying to get his amendments, of course.

*Interjection.*

**Mrs Marland:** What do you mean? At 5 o'clock?

**The Chair:** Order.

**Mr Mammoliti:** Mr Wessenger's done a lot of work off of committee hours. Why can't you?

**The Chair:** Order. I think Mr Wessenger now has the floor, followed by Mr Mills.

**Mr Wessenger:** You know, really, when I think the time we're wasting in this committee talking about matters that—

**Mrs Marland:** Just a minute. I've got—

**Mr Wessenger:** No, I have the floor now. Mr Chair, isn't that correct?

**The Chair:** That's correct.

**Mr Wessenger:** I have the floor and I think we're wasting a lot of time on this committee dealing with irrelevancies and matters about the aspects. I'm not going to get involved in disputing what Mrs Marland says. I'd have to disagree with her; that's what I have to say.

**Mrs Marland:** Your staff weren't off?

**Mr Wessenger:** I'm not going to get into that aspect. Unfortunately, I probably made an error. I tried to be helpful to opposition members and our members and provide them with information. Maybe I should learn my lesson that it doesn't help to try to be cooperative. I can assure her that the amendments she got on Monday I got on Monday, the same day. I can assure her of that. The reason they were draft is I had not reviewed them until Monday night. I put that on—

**Mrs Marland:** But Tuesday you told me they were draft and might be changed.

**Mr Wessenger:** Well, they're always subject to change.

**Mr Mills:** I want to speak directly to the motion. The motion of Mr Daigeler is about the benefits of having staff people from the Ministry of Housing comment, is it?

**Mr Daigeler:** I did say representatives of the Ministry of Housing. That's includes the parliamentary assistant.

**Mr Mills:** Okay. I heard Mr Wessenger make a statement that the bill is his bill, and he said that he's prepared to answer all the questions related to that bill. However, should members of the committee have some query that Mr Wessenger feels he can't answer or hasn't answered that adequately, then it is my understanding that staff will be called to the front to the microphone to elaborate on that. That, to me, is perfectly clear.

Having said that, I suggest that the question be put.

**The Chair:** You've moved that the question now be put?

**Mr Mills:** Yes.

**Mrs Marland:** Mr Chairman, on a point of order—

**Mr Mammoliti:** There's no point—

**Mrs Marland:** A point of order.

**Mr Mammoliti:** The question's been called.

**The Chair:** There's a point of order.

**Mrs Marland:** I don't think you can speak to a motion and then move that it be put. Would you please confirm that for me?

**The Chair:** Yes, you can. Mr Mills is in order. Mr Mills has moved that the question now be put. I find that to be in order. We've had a rather lengthy discussion of this with a number of members participating.

**Mrs Marland:** I'd like a recorded vote.

**The Chair:** All in favour of Mr Mills's motion that the question now be put? Mrs Marland has asked for a recorded vote. All in favour?

**Mr White:** What is the question?

**The Chair:** That the question now be put.

**Mr Wessenger:** On Mr Daigeler's motion.

**Mr Daigeler:** No, no, no, that the question be put.

**The Chair:** The issue is, should the question now be put? Call the names.

**Ayes**

Fletcher, Mammoliti, Mills, Wessenger, White, Wilson (Kingston and The Islands).

**The Chair:** All those opposed?

**Nays**

Carr, Conway, Daigeler, Fawcett, Marland.

**Clerk of the Committee:** It's 6 to 5.

**The Chair:** The motion is carried.

Would the clerk read Mr Daigeler's motion, and we will now vote on it.

**Clerk of the Committee:** Mr Daigeler moved that we hear from the representatives of the Ministry of Housing on this bill.

**The Chair:** All those in favour?

**Mrs Marland:** A recorded vote.

**Ayes**

Carr, Conway, Daigeler, Fawcett, Marland.

**The Chair:** All those opposed?

**Nays**

Fletcher, Mammoliti, Mills, Wessenger, White, Wilson (Kingston and The Islands).

**Clerk of the Committee:** It's 6 to 5, defeated.

**The Chair:** The motion is lost.

Now, clause-by-clause.

**Mrs Marland:** On a point of privilege, Mr Chairman: Mr Mammoliti asked why, when I phoned the ministry for Mr Wessenger's home phone number—

**The Chair:** No, no, no.

**Mrs Marland:** No, this is a point of privilege. I'm correcting what he has said. He said, why would I not have asked the ministry for a briefing? Why would I ask the ministry for the briefing if this is a private member's bill?

**The Chair:** Mrs Marland, you can of course correct your own record, but not someone else's.

Now, clause-by-clause.

**Mr Fletcher:** Why don't we adjourn and resume after lunch?

**Mr Carr:** I was just wondering, in light of what's gone on over the last little while here, and in fact it's almost 10 to 12, whether it might be advisable for us—I'm trying to be as helpful and constructive as I can—if we get some time and maybe adjourn till after lunch to allow the members to go through and proceed after lunch. I can either do that in a motion or I can try to be helpful—

**The Chair:** Are you moving adjournment?

**Mr Carr:** I was actually hoping to get a consensus without having to do that. I don't know if anybody else would like to speak on it. We've got 10 minutes.

**Mr Gary Wilson:** Come back at 1:30?

**Mr Mills:** No, I want to get going.

**Mr Carr:** I guess we didn't get a consensus. I won't move it.

**The Chair:** Fine. We will then commence the clause-by-clause examination. We'll commence with section 1. We will begin with an explanation from Mr Wessenger.

**Mr Wessenger:** Pursuant to Mr Conway's request, section 1 deals with the inclusion of "land intended and used as a site for a mobile home or a land-lease community home used for residential purposes, whether or not the landlord also supplies the mobile home." This includes land-lease communities under the provisions of the Landlord and Tenant Act.

At the present time mobile home parks are included under the Landlord and Tenant Act. There is some disagreement among lawyers on whether land-lease community homes are included. My view was that land-lease community homes were not included under the Landlord and Tenant Act. That was also the opinion of legislative counsel. As a result, that was the first amendment under the Landlord and Tenant Act that I brought forth, to ensure that we corrected what I consider had been a technical error in the previous act by not including land-lease community homes.

Also under this provision with respect to the Landlord and Tenant Act—I promised Mr Conway I would explain this—I was bringing forth some specific rights, additional rights, to owners of land-lease homes or mobile homes. These additional rights were (1) when the landlord withheld the—

**Mrs Marland:** On a point of order, Mr Chairman: Are you speaking to the amendment that's on yellow page number 1?

**The Chair:** He's speaking to section 1 of the bill.

**Mr Wessenger:** Yes. I'm doing as requested by Mr Conway. Also, he asked for a review of the amendment.

**Mrs Marland:** Oh, I see.

**Mr Wessenger:** The Chair suggested that we deal with this under section 1. I thought it was a helpful suggestion, because Mr Conway wanted to focus. What I'm going to do with respect to each act is to focus on the changes in those acts as we start, with the agreement of the committee.

**Mrs Marland:** I see. Thank you.

**Mr Wessenger:** The first improvement I indicated was the requirement that the landlord give written reasons for withholding consent. Under the Landlord and Tenant Act at present, landlords cannot unreasonably withhold their consent to assignment or subletting of a lease, but there's no requirement that they have to give those reasons in writing. I felt it was essential, particularly when we have the higher interest of a tenant who is the owner of his own home, that we ought to have the protection of written reasons. I must say that I've encountered this many times in my practice. The landlords withheld their consent for unreasonable grounds, there's nothing in writing and you had to bring an application under the Landlord and Tenant Act. By requiring it to be in writing, you're eliminating a lot of those illegitimate reasons for withholding consent.

1150

Secondly, the bill deals with the first right of refusal, and the amendment that will be brought forward brings that first right of refusal in line with the standard practice generally in real estate areas and in other areas, and I think that's a good amendment.

The third change will be—

**The Chair:** You are speaking just to section 1 now?

**Mr Wessenger:** Well, I'm reminding Mr Conway with respect to signs.

**The Chair:** I think we'd better go with section 1.

**Mr Wessenger:** Okay. That perhaps sums up the comments. What I would suggest and ask the Chair to do with respect to section 1, which deals with two aspects—there are subsections 1(1) and 1(2), and I'm recommending that we vote against 1(1). The reason for that is that we gave a different definition of "residential premises" for the purpose of section 128. Section 128 dealt with the reserve fund provisions, and since I will be making a motion to delete reserve funds, it's no longer required that we have a different definition of "residential premises" for the purpose of reserve funds. So it's a technical reason for voting against subsection 1(1), by reason of the section relating to reserve funds, 128.2 being deleted. I hope that's clear.

**The Chair:** To be clear, what we are talking about is subsection 1(1).

**Mr Daigeler:** Since we didn't get an opportunity to hear from the ministry yet, I guess we'll have an opportunity now. The first question that I have, and it's obviously brought forward by Mr Wessenger where he says there is confusion as to whether land-lease communities are included presently under the Landlord and Tenant Act or not. Because he feels there is some confusion, he wants to make sure that it is, and that's one of the reasons why he's bringing forward that bill.



I would like to hear from the ministry as to whether in fact there is confusion. Are they included or are they not included? I presume they're included, and in that case, if they're included, that's one less reason why we need the bill. I understand the concern, I think it's a legitimate concern, and perhaps while either the parliamentary assistant or his staff are speaking they would explain to me what the original intention was when it was drafted. Was there ambiguity? I presume land-lease communities would have been considered by the ministry as being included under the act, or are there any reasons why they shouldn't be included? If all that could be addressed, either by the parliamentary assistant or his staff, I'd appreciate that.

**Mr Wessenger:** I think with respect to the question I will ask legislative counsel, really, to respond to the question, since it's a legal question.

**Mr Daigeler:** I'm sorry, but—

**Mr Wessenger:** They are the experts with respect to—

**Mr Daigeler:** No, they're not.

**Mr Wessenger:** Yes, they are the experts. They are the experts with respect to legislation, Mr Daigeler.

**The Chair:** We will permit legislative counsel to give their opinion first. You may ask for another opinion after that, if you wish.

**Ms Sibylle Filion:** Well, I can only speak to the language of the bill. With respect to the application of the act, I would defer to the policy people from the Ministry of Housing.

The definitions of "mobile home" and "mobile home park" in the Landlord and Tenant Act are limited to homes that are meant to be movable or mobile, so that would, in other words, exclude land-lease community homes. However, on the substantive issue, I'd have to defer to the policy people from the Ministry of Housing.

**Mr Wessenger:** Mr Daigeler, if you want to ask a policy question, I'd be prepared to have the Minister of Housing—

**Mr Daigeler:** No. My question is not a policy question. My question is a question to the legal advisers of the Ministry of Housing, since it's their bill, and this one is going to be ultimately their bill as well.

**Mr Wessenger:** No, no. Mr Daigeler, it's not their bill, and you have to remember the way this process works. I have done a great deal of legislation, and the final arbitrators on the meaning of legislation given to legislative committees are the legislative counsel. They're the people who draft all legislation and determine the aspect of the meaning of that legislation. But if you want to ask a question, we have here counsel from the Ministry of Housing. If you'd like to ask them some questions, I'm quite prepared to—

**Mr Daigeler:** Mr Wessenger did raise another issue: Who's the last authority on what we pass here? I'm not a lawyer; I haven't been in court, thankfully. I'm not aware that legislative counsel has ever been called to give testimony, have they? Normally it's the ministries that are responsible for the particular bills and the interpretation

of the bills. So I would expect that the Ministry of Housing, when it comes to their bills—and I understand that right now it's Mr Wessenger's bill. But let's not kid ourselves: In order for this to pass in the House, it will have to have the support of the government. It will be part of the housing bills that the government carries, and the government and the Ministry of Housing will have to defend it and will have to enforce it and will have to monitor it and, later on perhaps, amend it.

Therefore, I'm sure there's a vital interest for the Minister of Housing and for her parliamentary assistant, who is here, to make sure that from a legal perspective we're doing the right thing. I think this is eminently fair, and my question is not really to Mr Wessenger but to the legal advisers of the Ministry of Housing, whether in their understanding, currently, land-lease communities are covered by the Landlord and Tenant Act. Now, that's not a complicated question.

**Mr Wessenger:** Mr Daigeler, if I might just rephrase that, I think the Landlord and Tenant Act would probably cover land-lease communities, but it's a question of whether those dealing with "residential premises" would be covered under the Landlord and Tenant Act. That's the question which I'd referred to the legislative counsel, and I accept the opinion of legislative counsel when I draft legislation. That's quite proper and it's the proper way to ask the legislative counsel that. But I will ask the Ministry of Housing for their views on the matter, the legal counsel.

**Mr Michael Lyle:** My name is Michael Lyle. I'm a legal counsel with the Ministry of Housing.

It's my interpretation of the Landlord and Tenant Act that it doesn't include land-lease communities at this time.

**Mr Daigeler:** I'm sorry?

**Mr Lyle:** That it does not include land-lease communities at this time. That's based on the wording of the definition of "residential premises" which is in the first section of the Landlord and Tenant Act.

**Mrs Marland:** What does it say?

**Mr Lyle:** It says "residential premises" means—I'll just read you clause (b): "land intended and used as a site for a mobile home used for residential purposes, whether or not the landlord also supplies the mobile home."

**Mr Noah Morris:** I should add to that. From a policy—

**The Chair:** Introduce yourself, please.

**Mr Morris:** I'm Noah Morris, a policy adviser with the ministry. I was on the interministerial committee as well.

From a policy perspective our interpretation is correct, that land-lease communities are not mobile homes, but for purposes of zoning, many land-lease community homes are actually modular homes that are transportable and are put on pads and brought on trucks. So for many land-lease community homes that are not site-built, for purposes of zoning they are actually transportable and can be considered mobile.

The other issue is, under the interpretation of "residen-

tial premises," the Ministry of Housing is generally of the opinion that residential premises, even in illegal apartments, is a tenancy agreement and those are covered by the Landlord and Tenant Act.

**Mrs Marland:** Can I have a supplementary?

**The Chair:** Mr Daigeler, I think, has the floor.

**Mr Daigeler:** Sure.

**Mrs Marland:** Noah, I am somewhat familiar with the Municipal Act and the Planning Act, and I'm wondering if you could define what you mean in that answer when you say "for the purposes of zoning."

**Mr Morris:** For the purposes of a land-lease community being legally zoned, manufactured homes are often constructed with centre-beam construction and put on site, and for the purposes of zoning, they comply with the zoning that would apply to a mobile home park.

**The Chair:** Thank you. We will resume these hearings at 2 o'clock this afternoon.

*The committee recessed from 1200 to 1417.*

**The Chair:** The standing committee on general government will come to order. The business of the committee this afternoon is to examine clause by clause Bill 21, An Act to amend certain Acts with respect to Land Leases. When we finished this morning's discussions, we were speaking to the Ministry of Housing representatives. I believe Mr Daigeler had the floor and he was asking some questions.

**Mrs Marland:** I was actually in the middle of a supplementary to Mr Morris.

**Mr Conway:** Could we have the names of the two gentlemen again? I just wanted to mark it down, because I'm mentally infirm after noon.

**Mr Daigeler:** Especially after such a good lunch.

**Mr Conway:** A very good lunch, absolutely, with an old colleague who's happily retired and drawing a good pension.

**Mrs Marland:** Is that Mr Martel? I saw him in the cafeteria.

**Mr Conway:** No, it's Pat Reid, proving that superannuation in this business can begin early.

**Mr Lyle:** My name is Mike Lyle.

**Mr Conway:** I'm more interested in your colleague, actually.

**Mr Morris:** My name is Noah Morris.

**Mr Conway:** Noah Morris. Thank you very much, Mr Morris.

**The Chair:** We have Mrs Marland asking a supplementary. Is that where we were at?

**Mrs Marland:** Yes. Mr Morris, I may not have been very clear in my question, my supplementary to Mr Daigeler, but you were using the terminology "zoning" in reference to types of structure. I wondered if you could explain that a little for the committee, because in my experience zoning is a land use matter under the Planning Act. I wondered if you could explain your answer.

**Mr Morris:** The only clarification I was making was on a legal interpretation. The clarification was that for many land-lease communities, the classic retirement type

of community, the homes themselves can be construed as being mobile, because they are constructed in such a way as to comply with local zoning standards. There are local zoning standards that apply to single-wide, double-wide and modular homes, and many of the retirement communities are built to comply to those standards. Under the Landlord and Tenant Act, those would be considered mobile homes; they could be considered mobile homes.

**Mrs Marland:** So what you're telling me is something I didn't know, that in some municipalities they use zoning bylaws to establish standards of structures?

**Mr Morris:** No, the standards of use.

**Mrs Marland:** That's what I thought. My point is that if zoning under the Planning Act is a land use, then how does it become a local zoning standard that qualifies a type of structure?

**Mr Morris:** The zoning would be a residential form of zoning.

**Mrs Marland:** Right.

**Mr Morris:** A subsection of that would be for modular homes or for single-wide or double-wide mobile homes.

**Mrs Marland:** Right. Is the single- or double-wide—I'm just writing this terminology down—modular building described in the Planning Act?

**Mr Morris:** It's not described in the Planning Act; it's described in the local zoning bylaws.

**Mrs Marland:** That's the point I'm making with you. So this is a local municipal option, to put that description into that municipality's local zoning bylaw?

**Mr Morris:** Yes, that's correct.

**Mrs Marland:** That's what I wanted to establish. It's not a provincial standard or a provincial statute's description.

**Mr Morris:** No, but obviously the authority to make local bylaws comes under the Planning Act.

**Mrs Marland:** Are you a municipal planner?

**Mr Morris:** I'm an urban planner.

**Mrs Marland:** What I would like to know, because I think it's very important to this legislation, is where in the Planning Act the reference is to mobile homes in terms of giving the authority to the municipality to have a zoning bylaw that pertains to standard of structure, whereas normally the only way that zoning bylaws refer to buildings is in the sense of a single-family—in other words, zoning bylaws generally pertain to land use, correct?

**Mr Morris:** Yes, they do.

**Mrs Marland:** If they pertain to land use, the land use description usually falls into single, multiple and density arguments in terms of the land use. That's why I'm very interested in what you're saying about there being authority under the Planning Act for a municipality to pass a bylaw that pertains directly to a type of structure, because I haven't seen that and I'd like to see it.

**Mr Mills:** On a point of order, Mr Chairman: I'd ask you to rule on this. Has this got anything to do with what we're talking about here today, this bill?



**Mrs Marland:** I would hope so.

**Mr Mills:** I don't think so. I think it's off track.

**The Chair:** Thank you for your opinion, Mr Mills. Mrs Marland.

**Mrs Marland:** I think it's very important that we all understand the arguments for and against. I think it's important that we understand who has the authority here. If the authority is vested in the local municipality to pass a zoning bylaw that controls more than land use, and that is already established in the Planning Act, then I accept it.

I'm just saying that my municipal experience, and I'm not a planner but my municipal experience is 12 years, is that I never recall my municipality or even my regional municipality, which are Mississauga and the region of Peel, using the zoning bylaws for other than land use. If we're talking in your answer about zoning referring to local building standards—because that's what we're talking about; we're talking about a type of building—normally, and I say this for Mr Mills's benefit, when you get into the detail of the building, if you're talking about a type of structure—

**Mr Mills:** I was on the planning committee on council and I know all about that—

**Mrs Marland:** Well, then, you would understand, Gord—

**Mr Mills:** —but this isn't relevant to this.

**The Chair:** Through the Chair, Mrs Marland.

**Mrs Marland:** I go back to Mr Morris. Normally, after a municipality defines "land use" in its secondary plan and its official plan, if you're going to go into more detail about, "This house can go on this piece of property"—I think, with respect, Mr Mills, we're talking about houses on pieces of property in this bill and it's very important—if you are arguing that this building, this kind of house, can go on this piece of property, if you want to then go further into defining what kind of building that is and you want to talk about cladding and height, rear-yard and side-yard setbacks and all those kinds of details, are they not normally addressed under the site plan process?

**Mr Morris:** In the case of zoning for modular housing, my understanding is that changing zoning for movable residential dwellings is what is being discussed under local zoning bylaws. What the local bylaws say is that this particular piece of land is zoned for modular, movable single; a subset of that would be single-wide and double-wide.

**Mrs Marland:** Okay. Can you tell me where there is a municipality that has that in its zoning, and can you tell me what section of the Planning Act gives it that authority?

**Mr Morris:** I don't have a copy of the Planning Act with me, so I can't tell you the section.

**Mrs Marland:** Okay.

**Mr Morris:** I believe the town of Newcastle zones that way, and Wilmot Creek has to follow a certain standard as a result. There are other municipalities as well.

**Mrs Marland:** I've heard in the deputations that

certainly Wilmot Creek comes under site plan control, but I'm very interested when you're tying it in with a municipal zoning bylaw as well as a site plan.

**Mr Morris:** I'm aware there are lots of municipalities with that bylaw. I can't enumerate which ones; I'm sorry.

**Mrs Marland:** No, but you think Newcastle would be, because that's where Wilmot Creek is.

**Mr Morris:** I believe so.

**Mrs Marland:** Would you be able to—well, you can't. This is the problem. We only have today, so I can't get an answer to this question, Mr Chairman, because obviously Mr Morris can't leave and go to get the Planning Act and come back to give an answer to this question.

What I may ask then is that I get an answer to the question about where the authority is vested in the municipality under the Planning Act to do that specific kind of zoning, and if I have it before we get into either committee of the whole in the House or—maybe just on a point of procedure, if we do not finish all the amendments today, will the general government committee continue to sit when the House resumes on a weekly basis, dealing with these amendments until the bill is fully through the general government committee?

**The Chair:** The committee, Mrs Marland, operates under the normal rules of the Legislature. We will be considering this bill, along with other bills. As you would know, government bills take precedence over private members' bills. It would depend on what is in front of the committee how fast we will make progress on this particular piece of legislation. That is of course if we do not finish by 5 o'clock this afternoon.

**Mrs Marland:** Obviously Mr Morris would have time to get that answer for me.

**Mr Daigeler:** If I understood you right, legal counsel for the ministry said that they feel land-lease communities are not covered, that they're not included in the Landlord and Tenant Act. However, the policy adviser, I think, said that because—that brings me to my simplistic question that I asked yesterday. There was more to it than just a simple question, because even the structures that are in land-lease communities can be considered mobile. Therefore, they could be, and probably are, covered under the Landlord and Tenant Act.

Also, I think you were referring to what we're discussing actually under Bill 120 where the Housing officials were telling us that even though the illegal basement apartments are illegal, nevertheless they most likely would be covered under the Landlord and Tenant Act if it ever came to the crunch, because basically people live there. Is that what you were saying, Mr Morris?

**Mr Morris:** That's a fair interpretation of it. It's true that permanent structures on leased land with foundations may or may not be covered. We don't think they are covered. But there are subsets within what we consider land-lease communities where they can be construed to be mobile and they would be covered. That would be dealing with mobile homes.

1430

**Mr Daigeler:** Are you saying then that some build-

ings in land-lease communities, according to your opinion, are covered, but others that perhaps are more permanent are not covered? Is that what you're saying?

**Mr Morris:** I'm not a lawyer. That's a fair assessment of what we generally think is how it applies.

**Mrs Marland:** Mr Lyle is a lawyer.

**Mr Daigeler:** In any case, perhaps I should ask that of the lawyer.

**Mr Wessenger:** Perhaps you should ask that of the lawyers, if it is a legal question.

**Mr Daigeler:** It's not only a legal question. That's precisely why we want to hear from the Ministry of Housing, how it wishes to handle all this and whether the Ministry of Housing feels there's enough ambiguity to require a legal change and to require this bill, and I haven't received an answer yet. From what you're saying to me, I would conclude that you're really satisfied that basically, if it comes to the crunch, they are covered, and therefore from a Ministry of Housing perspective, we don't really need this bill. That is a policy question and therefore I can't ask that of the lawyer.

However, before you answer the policy question, I would like to ask a question of the lawyer, and that is, have there been any precedents? Has it ever gone to the court? Are there any kinds of precedents where it was tested whether the Landlord and Tenant Act applies to these houses?

**Mr Lyle:** I'm not aware of any case law on this subject. That's not to say there isn't some out there, because many landlord and tenant cases are not reported.

**Mr Daigeler:** Now how about an answer to my policy question, and I'm not sure whether perhaps the parliamentary assistant would want to answer that. Does the ministry feel there's enough ambiguity to change the law and possibly to do that through Bill 21?

**Mr Gary Wilson:** I'd prefer to hear what Mr Morris has to say first and then what Mr Wessenger—

**Mr Mills:** It's Mr Wessenger's bill, right?

**Mr Gary Wilson:** Yes.

**Mr Conway:** That's the way to become a minister, Gary.

**Mr Gary Wilson:** The way to help our government, though, is to get this through, so, Paul, you can respond.

**Mr Wessenger:** In answer to this question, I find it somewhat strange. I have indicated already on the record that I am of the opinion that these communities are not covered under the Landlord and Tenant Act. As a lawyer, I'm of that opinion. We also have the opinion of the lawyer from the Ministry of Housing that they're not covered under the act. Those are two legal opinions.

**Mrs Marland:** Internal.

**Mr Conway:** That's like asking me what I think "brief" means.

**Mrs Marland:** That's like asking the fox how he likes the hen-house.

**Mr Wessenger:** I'll be quite happy to explain from a legal point of view. If you want to hear a legal point of view, the aspect is that once you define "mobile home"

within the Landlord and Tenant Act, by that very definition of "mobile home" you are in effect excluding anything that might be considered a land-lease community home. Once that particular definition was put into the act, that made it very clear that a land-lease community home was not included, and certainly all the legal opinions I've had from any lawyer I've ever discussed it with in connection with this matter have been that it's very clear that land-lease communities are not included.

I know there perhaps is some vagueness. What is a land-lease community and what is a mobile home park? There may be some sort of fringe area where there might be some area of ambiguity there, but it's very clear, for instance, in Wilmot Creek and in Sandycove Acres, which I am familiar with, that the homes there are permanent. They are very strongly attached to the land. Many of them have foundations, and I think it's very clear in the law that a home that has a foundation is very clearly not a mobile home.

**Mrs Marland:** What law is that in?

**Mr Wessenger:** I don't have my legal opinions in writing for you, Mrs Marland. You'll just have to take my word for it.

**Mr Mammoliti:** The Wessenger law.

**Mr Conway:** Go to the bank on that, Margaret.

**Mr Wessenger:** I would be very happy to put a legal opinion to a client on that. I'd go that far.

**Mr Daigeler:** I keep coming back to the ministry. I appreciate and I understand what Mr Wessenger says. I think he makes a good argument, and that's why it is a private member's bill that bears his name. Nevertheless, I keep coming back to the point that once this is adopted by the House, it will be in the Ministry of Housing's lap. I would like to hear from the parliamentary assistant.

At one point Mr Wessenger said this bill does not have the support of the government. I think he meant to say that this is not a government bill, but he did say it does not have the support of the government. So I do want to hear, either from the officials or from the parliamentary assistant, whether the Ministry of Housing feels comfortable with this approach and whether it feels that this is what's needed and that this is what should be done, and how it views this matter and whether it's going to be supported by it or if it wants further amendments or what. We haven't heard officially. We've heard from Mr Wessenger, but we have not heard from the Ministry of Housing, either through the parliamentary assistant, or if it wants to speak through the officials, that's fine with me, how it feels about this.

**Mr Gary Wilson:** I'd say yes, we are comfortable with this process; that's why we're participating. What Mr Wessenger has laid out is the interpretation that we're to decide on here. You've heard from him. We haven't heard from Mr Morris in the final, which is what I think we should be doing. I'm not sure what it takes to satisfy you, Mr Daigeler. What we are looking at here is Mr Wessenger's bill.

*Interjection.*

**Mr Mills:** We wouldn't be here.



**Mr White:** If it wasn't for his initiative.

**Mr Daigeler:** What I haven't heard, and I think Mr Conway asked that at one point earlier, is whether the government will support it when it's introduced in the House. It's a simple question.

**Mrs Marland:** On a point of order, Mr Chairman: Mr Mills said that we wouldn't be here if Mr Wessinger hadn't brought forward—

**The Chair:** What is—

**Mrs Marland:** This is the point of order. He said that we would not be here if Mr Wessinger had not brought forward this bill. In estimates two years ago, I asked the Minister of Housing about these communities, and she said—

**The Chair:** No, this is not a point of order. It might be an interesting point of information.

**Mr Daigeler:** I still place the question. I think it had been asked earlier, but there was no clear answer.

**Mr Gary Wilson:** It is Mr Wessinger's bill. We've looked at it. He wanted to make sure he's got it covered, and by listening to him, we think he has. So why don't we just look at the motion that's before us and deal with it on the merits of the argument which he's put forward?

**Mrs Joan M. Fawcett (Northumberland):** If the ministry doesn't support it, it doesn't go anywhere.

**Mr Daigeler:** Obviously, the parliamentary assistant doesn't want to give final approval to this bill. I think this has been clear from the beginning. It's quite clear that the Ministry of Housing wants to leave it open. It wants to hear how this thing is going and then leave its options open.

*Interjection.*

**Mr Daigeler:** That's fine, frankly. I think that's fair. But why don't you say so? Frankly, I'm in a similar position. I see some merit in what is being proposed, but I think there are some open questions still and it needs a bit more work. If that's the position of the Ministry of Housing as well, I think that's quite fair.

**Mr Gary Wilson:** The position is that we're here to discuss Mr Wessinger's bill. He's laid out, in response to your question, the way he's approached it and why he's put it in the bill the way it appears, what we're discussing now. What you seem to be looking for is something that's beyond what we need in this committee.

**Mr Daigeler:** I'll come back to it later.

**The Chair:** Mr Conway, you had some questions.

**Mr Conway:** Yes, not many, but just let me pick up at the last exchange. Let there be no confusion. If we complete this bill this afternoon, my impression is that this will be the law of the land by June. These troubling little questions may seem like a trifle to some people, but you should understand that everything I hear from the other side tells me that this is a bill that is going to receive the majority support of this Legislature.

**Mr Fletcher:** Maybe.

**Mr Conway:** There's no maybe about it. I may be proven wrong, and fair ball, but—

**Mr Mammoliti:** As it should be, Sean.

**Mr Conway:** I don't have any problem with that. That's as it should be, but my point is simply this: This is going to be our baby, so to speak, and to the extent that I'm going to be voting one way or the other, and since this probably is going to be the law of the province by the end of June 1994, based on my experience, I'd rather ask the questions now and get the questions answered to the best of our ability, because believe you me, friends, by not too many weeks from now there are going to be lots of questions that we haven't thought about and no deputant has advanced. Let me just say that.

**Mr Morris:** I was interested in something you said. You know something that none of the rest of us knows, and you're honour bound, of course, not to say a great deal, but I think I heard you say you have had some association with the famous interministerial committee of 1989, 1990, whatever that was. Correct?

**Mr Morris:** Correct.

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**Mr Fletcher:** The secret document.

**Mr Conway:** Yes, the secret document. I understand that's an embargoed document and all the rest of it, but I understand that that document—I'm now speaking to this particular section. My friend Daigeler has a much more sort of intricate theological mind than I do.

**Mr Daigeler:** Casuistic.

**Mr Conway:** No, that's kind of pejorative. You're not a Jesuit anyway. I just don't grasp a lot of these particulars, and I'm sorry for that, but I understand that the interministerial group produced a document that had about 120 recommendations, so I'm told now.

I'm going to be asking this question over again, because as I say, I'm a generalist with no expertise on this subject. But as I look at this section 1, what's left of the section 1, is there anything here in terms of the definition of "residential premises" that to the best of your knowledge fails to take account of any of the wisdom that's been generated out there in the last five years? I'm assuming there isn't, and I would like somebody from the ministry just to tell me that's not an unreasonable assumption.

**Mr Morris:** Without giving away anything that's in confidential documents—

**Mr Conway:** I don't expect you will.

**Mr Morris:** —it's our opinion that there is sufficient ambiguity out there to warrant the inclusion of a definition of a land-lease community home and that there's sufficient ambiguity to clarify that under the Landlord and Tenant Act.

**Mr Conway:** I appreciate that and that is helpful. When you and brother Lyle sit down and compare policy and legal inputs, you're reasonably satisfied that within human competence this is about as close as we're going to get to language that addresses both the problems that are out there and the reality that's also out there?

**Mr Morris:** Is that a question for me, as someone who's advising on this, or is it—

**Mr Conway:** You're paid to advise Her Majesty, and you are the people who are going to get to answer a lot

of these questions in a few weeks' time. They may be trifles. They may be completely irrelevant questions, and I'm happy to have you tell me that. As I say, you get paid the big bucks. You're going to get to give some answers. I may be in your office in two months' time with a delegation from Jawbone, Ontario, who are going to find out and, "Boy, there was a situation out there that nobody knew about and I'm here to present it to you."

I just want to know, to the best of your knowledge, in consultation with your legal colleague, that this language is going to address both the ambiguities that are there in the existing legislation and will deal with the various categories of mobile home parks and land-lease communities and all the rest.

**Mr Morris:** I'll defer the legal opinion to Michael, but I would say that from my personal perspective I feel this will address that ambiguity.

**Mr Conway:** Good. That's fine. You obviously agree.

**Mr Lyle:** I'm comfortable with the language.

**Mr Conway:** Good. That's fine. I appreciate that.

**Mrs Marland:** A few minutes ago, Mr Wessenger said that buildings with foundations are not mobile homes. First of all, Mr Wessenger, do you wish to clarify that statement?

**Mr Fletcher:** He wasn't listening to you. He was listening to me. I'm sorry.

**Mrs Marland:** That's all right, Mr Fletcher. I don't mind.

**Mr Wessenger:** I heard the question.

**Mrs Marland:** I don't mind you doing that. That's fine. I thought this was Mr Wessenger's bill and he would be interested in the question.

**The Chair:** I think the Chair minds. Could we just keep the conversation flowing between the members.

**Mr Wessenger:** I am clearly of the opinion that a home on a permanent foundation is not a mobile home. I'm clearly of that opinion.

**Mrs Marland:** Is a permanent foundation one that does or does not include a basement, in your opinion?

**Mr Wessenger:** In my opinion, it does not have to include a basement in order to be a permanent foundation.

**Mrs Marland:** Okay, so you would agree that a structure on a flat concrete bed or envelope pad is or is not a permanent—

**Mr Wessenger:** That is one of the areas where you could have, depending on the degree of attachment—the law with respect to the whole question of whether it's mobile or removable is that it depends on how it's attached, so you have to look at the degree of attachment in order to determine whether or not it in fact is a mobile home. It's conceivable, if it's something you can very easily disconnect and pick up, that it could be a mobile home.

**Mrs Marland:** Would you agree then that if it was on foundations from which it could be detached or attached, you also have the same answer as on a concrete pad?

**Mr Wessenger:** The law generally is the degree of

attachment of the premises. Is it removable? How easily removable is it? That's basically the test, and you might want to confirm that even more with—I don't know whether legal counsel would be more up to date on this than I, but from a practising real estate lawyer that is definitely the test, the degree of attachment and how easily it can be removed, more of a functional test rather than a question of—

**Mrs Marland:** Structure?

**Mr Wessenger:** Yes. The functional test is very relevant in determining whether or not it's mobile.

**Mrs Marland:** Mr Lyle, would you like to give your opinion?

**Mr Lyle:** I think I can agree with Mr Wessenger on the comments he made. Do you need any more elaboration?

**Mrs Marland:** His statement is that you define the attachment by the ability to remove the structure.

**Mr Lyle:** That's correct, yes.

**Mrs Marland:** You agree with that.

**Mr Lyle:** I do.

**Mrs Marland:** If I took you out to University Avenue, I could show you a century-old building which is probably about a 3,000-square-foot building, two storeys—it may even be two and half storeys—which was in another location, with a basement, and that building was moved to that location.

If the definition is whether or not you can pick it up and move it, I would suggest respectfully, and I am not a lawyer, that it is possible to move structures of any size that you're ambitious enough to move. Whether or not it's on a foundation that goes below the surface of the ground or whether it's an on-grade concrete pad or whether or not it has a basement beneath it, the mobility of a structure is possible.

What I would suggest the answer should be, not as a lawyer, is the degree of desire as to whether or not a structure wants to be moved. I don't understand how two lawyers in this room can say as pure as black and white that buildings with foundations are not mobile homes. I'm sorry.

**Mr Conway:** Margaret, you sound Catholic.

**Mr Mammoliti:** There's nothing wrong with Catholics, is there, Sean?

**Mr Conway:** I didn't say that.

1450

**Mr Lyle:** I suppose if you use that argument you could say that any building is a mobile home. I think it's all a question of degree as to how difficult it is to move the building and what is the likelihood of that building being moved. It really is a question of degree, but you're correct, any building can be moved with enough effort.

**Mrs Marland:** My concern with this part of this clause in this bill and the comments that I've heard is around the fact that we're about to pass something into law in this province which will be from then forward the benchmark for that particular statute as a reference to what people can or cannot do. What concerns me is that I don't hear anybody saying there is a precedent of an



opinion that establishes whether or not buildings with foundations are mobile homes and I think that's what we need.

With all due respect to Mr Wessenger, it's his bill, or that's what Mr Wessenger is telling us. He's also telling us that he has experience in real estate law. What I am saying is that I would like an opinion, Mr Chair, or even a reference to a case that has established that buildings with foundations are not mobile homes. If I can get that opinion, I'd be willing to proceed with the amendment to subsection 1(1) of the bill. But until I get that I think none of us in this room have a right to vote on something without that qualification.

**Mr Wessenger:** I think we're really getting absurd arguments here, in a sense.

**Mrs Marland:** In your opinion.

**Mr Wessenger:** The reality is that the law with respect to fixtures to land is a complex area of law determined by the courts. I think it's fair to say that in the past most homes in land-lease communities would have been considered to be not mobile homes. I think that's fair to say. Whether you can design a type of modular home that can fit into that category, that's possible—I think it's possible to design that—but the degree to which most modular homes in the land-lease communities are attached are in my opinion such as to make them not mobile homes.

If we look at the question of the law relating to fixtures you'll find that it's not only a question of the degree. There is another legal factor we should be talking about. There is another factor other than the whole question of the degree of attachment and the degree of damage. There's also the whole question of the intention of the parties. If something is put on with the intention that it be movable, then of course that's an argument that it's chattel, not part of the fixture.

The intention is a factor, but I think it's fair to say that in most land-lease communities I would expect that the intention would be clearly established that these not be movable units, and that's very much a factor in determining whether or not they would be mobile homes. So the intention is a factor as well as the degree of attachment. I cannot anticipate any court deciding that homes that are quite strongly attached and where there's no intention to make them movable would ever be not considered part of the land and a fixture to the land.

**The Chair:** Before we go to Mrs Marland again, I'm just a little concerned that we're getting a little beyond ourselves. We're dealing with section 1, but subsection 1(1) does not deal with the present conversation. It's subsection (2) that we're talking about, Mrs Marland. We'll adopt the whole section or not when we get that far. I was just concerned that you'd referred to the wrong subsection.

**Mrs Marland:** I appreciate, Mr Chairman, your pointing that out, but in subsection 1(1) we are dealing with the definition of "residential premises." If we are referring anywhere in this act to residential premises we'd better know to what we are referring.

If we accept Mr Wessenger's profound argument about

the land-lease community type of building that may or may not be on foundations and may or may not be on basements, then I would like to take him to the other type of development where in fact some of our deputations did refer to arguments under the chattels, using that term, "chattel," and again, I don't pretend to know what that defines. But if we go to that other type of development where we also have structures that have very elaborate foundations, maybe not basements but very elaborate foundations, and especially additions to them like garages—I don't consider a carport a tremendous structure as an addition to a building, but certainly garages and other rooms—I would respectfully suggest to Mr Wessenger that they too are less than mobile. I'd like to know how he argues it on that side of the question.

**Mr Wessenger:** The question asked, what about the fact that many of the structures in so-called mobile home parks are on foundations? I think the answer to that is that it's clear that land-lease communities are not necessarily mobile home parks, but on the other hand, it could be very well argued that all mobile home parks would be land-lease communities. I think that's fair to say.

I think if we were starting over again and we hadn't defined "mobile home park" in the original Landlord and Tenant Act, if we were going to redraft the whole Landlord and Tenant Act—when I originally started on this bill I was told by legislative counsel, "You can't redraft the whole Landlord and Tenant Act"—if we were doing that process, we might have done it a different way. But seeing we already had the concept of a mobile home park introduced in the Landlord and Tenant Act, the logical way of correcting the problem is to add in the concept of a land-lease community. It's quite possible that mobile home parks might be deemed to be land-lease communities. I think that's a fair comment.

**Mrs Marland:** I don't see a definition in your bill that says mobile home parks are land-lease communities. Are you telling us that the intent of your bill is to say that land-lease communities and mobile home parks are all the same?

**Mr Wessenger:** The intent of my bill is to ensure they're both treated equally so there would be no distinction of whether you're in a land-lease community or in a mobile home park.

**Mrs Marland:** No, that wasn't the question. I wasn't asking you—

**Mr Wessenger:** That's the intention of the legislation and that's the way it was drafted.

**Mrs Marland:** Excuse me, I wasn't asking you if you wanted them treated the same. I was asking you if in your opinion there is no difference between a mobile home park or a trailer park and a land-lease community in terms of the fixed property, which is the land, and the added property, which is the structure. Are you saying that in both kinds of communities this is all the same?

**Mr Wessenger:** I think one could make a distinction between the two, and the distinction I would make is the sense that in many of the mobile home parks, many of the structures are such that they are movable, strictly the single-wide variety. Where you get into a mobile home

park that has a double-wide, you're getting very close to the situation that you'd have in a land-lease community.

**Mrs Marland:** It's very interesting to listen to you, because you've said some are movable—

**Mr Mills:** It's more interesting than listening to you.

**Interjection:** That's not nice.

**Mr Conway:** Gordie, don't abandon your gallantry.

**The Chair:** Interjections are out of order.

**Mr Mills:** There's a limit to what a human can take.

**Mr Conway:** It's Lent; 39 days left.

**Mrs Marland:** Some are movable in the trailer and mobile home park, so what you're also saying is that some cannot be moved. Correct?

**Mr Wessenger:** Some of the structures I've seen in a few parks, not many, have been very close, and usually a very limited number have been close to what you'd would find in some of the land-lease communities.

1500

**Mrs Marland:** Would you agree that some of those that can't be moved might be those that are on some kind of foundation?

**Mr Wessenger:** Yes, possibly on some kind of foundation.

**Mrs Marland:** That totally destroys your earlier statement, where you said buildings with foundations are not mobile homes.

**Mr Wessenger:** I would generally say that's the case. One could design a foundation for a movable unit; that's quite possible.

**Mrs Marland:** Would you agree, then, that if some are movable and some are not, yet all of them are on leased pieces of property, when you want them all treated the same, that is not equality because of the fact that they are different?

**Mr Wessenger:** I do not see the difference with respect to the Landlord and Tenant Act, with respect to having rights under that act, whether you happen to live in a mobile home park or whether you happen to live in a land-lease community. Both deal with the situation where you have the home owned by the resident and the land owned by a land owner. From a legal perspective, I don't see a difference.

There may be a difference in the degree to which one could move the structure. There would be a difference there, but that's the only difference. There's also a degree, of course, in the amenities. The reality is that land-lease communities tend to have more expensive units, better services, be much closer to a single-family residential area. In fact, some of the land-lease communities are exactly the same as single-family residential areas, the same as any other subdivision. You wouldn't notice a difference, going into some of these land-lease communities, from a normal subdivision.

**Mrs Marland:** In your wish to treat everybody equally, where is your consideration in this definition in subsection 1(1) of the act for the people who own the property where the homes are either mobile or immobile? You want to be equal, you want to be fair, you want to

treat everybody fairly, but you're actually only looking at one side of the ownership, in my opinion. I want you to tell me whether I'm right or wrong, because I'd like to see where it is that you're looking to the rights of the person who might own the trailer park.

**Mr Wessenger:** I find it difficult to understand what your question is, but let me just—

**Mrs Marland:** Do you want me to rephrase it?

**Mr Wessenger:** No, you don't need to rephrase it.

**Mr Mills:** Please, please, mercy.

**Mr Wessenger:** That's right.

At the present time, if you happen to live in a mobile home park and the landlord wants to evict you, the landlord has to go under the provisions respecting residential premises under the Landlord and Tenant Act. If you live in a land-lease community and the landlord wants to evict you, you don't have any of the protections of that act at all. You might say, "Why is it we haven't had more problems arising?" The reason you haven't had problems arising is that, first of all, most of the owners of these parks say, "We will consider ourselves bound by the Landlord and Tenant Act," because it would not be in their self-interest not to do that.

The other aspect is that the amount of investment that people make in a land-lease community is very large with respect to buying one of these investments. If an owner attempted to say, "We're just going to exercise our strict rights under the Landlord and Tenant Act," they would create such a bad impression of that community that nobody would buy in that community. It's the bargaining position between the purchasers of the homes in the land-lease community and the owners of the homes who make sure that you don't have the same abuses in these parks, generally, that you would have in a mobile home park.

That is the reason why we haven't had too many cases under the Landlord and Tenant Act with respect to the land-lease communities, because generally, as I said, the owners have an interest with respect to making it a desirable place to purchase in and to live.

The other thing we should be aware of is that the profit in a lot of these parks is probably made not so much from the operation of them, but a lot of it's made from the development of them and then the selling of the modular home, and even in the case of mobile homes, with respect to the sale of the mobile home.

**Mrs Marland:** When this amendment is moved—oh, it has been moved—to vote against subsection 1(1)—

**Mr Wessenger:** This relates purely to reserve funds. It's a technical amendment that has to be made, because there's going to be an amendment that will delete reserve funds.

**Mrs Marland:** Is that amendment in here?

**Mr Wessenger:** Yes, it is. We will probably be voting against that section too, I should say. It won't be an amendment. It will be section 128.2, on page 4 of the bill, section 128.2, reserve fund. It will be an amendment actually on section 12. The amendment will be to delete sections 128.2, 128.3, 128.4, 128.5, 128.6 and 128.7. The only section that will remain in 128 is 128.1.



**Mrs Marland:** In order to get this question, I have to ask, because Mr Wessenger has mentioned 128.2. The interesting thing about 128.2, as opposed to the section we're on now, is that there is a reference to non-seasonal mobile homes, and that isn't in section 1, is it? Is there a reason for that?

**Mr Wessenger:** That whole section is being deleted.

**Mrs Marland:** Yes, I understand that.

**Mr Wessenger:** I should also indicate that there will be an amendment in front of you that will also designate all reference to non-seasonal homes. I don't like to discuss all sections at one time, but I'll be very happy to explain why that is happening.

**Mrs Marland:** But I find it very interesting that when you're dealing with the definition of "residential premises," in the first section of the bill is the first time you talk about residential premises. I know you're wanting us to vote against this now. But the point is that it's very interesting that you didn't make any reference then to non-seasonal mobile home parks, and yet you saw fit to introduce that further down in the bill. Don't you think that's interesting?

**Mr Wessenger:** If you look at section 2, you'll find there's a definition of "non-seasonal mobile home park," and if you look at amendment number 3, I think it is, there's a motion that the definition of "non-seasonal mobile home park" be struck out. I don't want to get into that, but the reason for moving that one will be that it would create three classes and therefore it would create too much confusion with respect to the law.

**Mrs Marland:** I understand that, but was it a mistake that the definition wasn't introduced at the beginning of your bill?

**Mr Wessenger:** No, it was not. It's not relevant, really.

**Mrs Marland:** It sure is relevant to people who have non-seasonal operations, I would think, like the gentleman who is having that terrible time out at Cayuga.

**Mr Wessenger:** With the amendments, my bill does not change the definition of—

**Mr Mills:** On a point of order, Mr Chairman: I've listened to this going on now for goodness knows how long.

**Interjection:** What's your point?

**Mr Mills:** My point of order is this: My community is seeking speedy expedition of this bill and I see nothing that the member for Mississauga South is talking about but stalling. I suggest to you, Mr Chair, that you rule that we get on with clause-by-clause and come to grips with what we're here for.

**The Chair:** Thank you, Mr Mills. Mrs Marland.

**Mr Mammoliti:** I guess you're not ruling.

**The Chair:** I think I did. Mrs Marland.

**Mrs Marland:** Mr Chairman, with this motion, are we getting to debate—this motion deals with subsection—actually, is the wording correct here? It says subsection 1(1). Is that correct to refer to that as a subsection when it's a section of the bill?

**Mr Wessenger:** Yes, subsection 1(1) is correct. These were all prepared by legislative counsel, who are the experts in the proper way of dealing procedurally.

**Mrs Marland:** Okay. That's good. Are we going to then move on to subsection 1(2)?

**Mr Wessenger:** Not until we vote.

**Mr Daigeler:** Not yet.

**Mrs Marland:** No, but I mean after we deal with this.

**Mr Wessenger:** Yes, we will.

1510

**The Chair:** It has been the tradition of Chairs to allow a very broad-ranging debate on section 1 of bills. As we go through the bill, the debate that is permitted to sections is generally seen to be more restrictive. It would be the Chair's preference that we deal with 1(1) and then move to 1(2), but I'm fully prepared to listen to a rather broader debate on the whole issue at this point.

**Mrs Marland:** I'll leave it till we get to (2), then.

**Mr Daigeler:** I don't think my question is that broad, but it is a little bit broader than just subsection 1(1) because I still have some questions for the ministry and to the ministry officials. I guess I have to do it now in clause-by-clause because we didn't have the opportunity earlier. I'll ask that question of the ministry, and whoever wants to answer is fine with me.

Several of the presenters said that it would be more appropriate to have separate acts, that there should really be a separate act for land-lease communities to deal with their problems and perhaps a different act for mobile home communities and so on. I'm wondering, from the ministry perspective, how does the ministry feel about the idea, the concept of separate acts?

Obviously, if we're passing this one, you won't be looking at separate acts for a long time, because knowing the process, it's rather complicated. If the ministry feels that it would be better to have separate acts, should we wait for that? If they feel no, separate acts are not a good idea, why are they not a good idea? This has been brought forward several times during the public hearings.

**Mr Gary Wilson:** If I may answer that, I'd like to say that what we think is the proper approach is to deal with Mr Wessenger's bill, which addresses a problem that he's identified, and certainly many of the presenters were here urging us to pass this legislation, that it couldn't be done soon enough. That was, to my mind or to my ears, the preponderance of the presentations. This is what we should be looking at, this bill, and I don't see why we should be looking at the other. But I'd like to hear what Mr Wessenger has to say, whether he considered that in his approach to the issue.

**Mr Wessenger:** I'd not be pushing this bill if I thought we had the imminence of a general bill. As I said, in the long run we're all dead. We may have a general bill at some stage, but knowing legislative priorities and having just been through one—my first piece of legislation in the health area took about 12 or 13 years to get through from beginning to end—I think that we might have a general bill maybe within the next 10 years, but—

**Mr Conway:** You're a lucky man that exercise didn't kill you, as it did one other predecessor.

**Mr Wessenger:** Right. I just don't want to wait for 10 years. Clearly, I would love to have a general bill and I'd like to see the ministry proceed to it in the future, but I think, from a realistic timetable, certainly not for several years. Maybe I shouldn't say this, but I think this whole area could do with not just the whole question of whether you have a separate bill; maybe we should look at the whole question of landlord and tenant again at some time, and home ownership and all these aspects, and come up with comprehensive legislation dealing with the whole thing.

That might be a better approach, but I don't see a comprehensive bill being imminent, and the problems are so great at the present time that, as I said, let's deal with a problem we have.

My act, I think, will be a spur quite frankly to perhaps dealing with some other problems too. That's why I hope it will be supported. It will, I believe, be a spur to maybe looking at a solution to other problems; at least I hope it will be. I'm not finished with my interest in this area and I certainly will be pursuing other aspects for improvement as time goes by.

**Mr Daigeler:** I appreciate that. In this paper that was prepared, with thanks, by the researcher in a very limited amount of time, the OLLF—that stands for Ontario Land Lease Federation—asked the government: "Prepare a new piece of legislation that encompasses only mobile home parks and land-lease communities. The existing Landlord and Tenant Act, the Rent Control Act, the Rental Housing Protection Act and other acts have all attempted to fit our communities into existing legislation and it is not working."

I am just not sure that the bill we have in front of us—and I'm looking for some reassurance from the ministry again; obviously, Mr Wessenger believes it. I'm not that sure yet that Bill 21 will in fact solve the problems that have been identified here: for example, the latest group that came to us and was showing us the pictures of how terrible their facility is and the landlord wants to sell and he's not doing anything. As far as I understand it, since this bill is not going to be retroactive, this landlord could still go ahead and sell his park and the tenants would just be in the same situation.

Perhaps I'm wrong. I'm looking for some clarification. I'm just concerned and I'm looking for some reassurance that in fact this bill will do the job. I hope for some opinion from the Ministry of Housing.

**Mr Wessenger:** I'd like to answer that one. I won't answer specifically with respect to this park, but let's just say what the general scenario is with respect to parks in my area. My area has been an area of rapid economic development. In 1989 or 1988, that era, we had three trailer parks in the area. All of them were seen as very good areas for the development of housing other than trailer parks. The owners of all these areas, two of them anyway, received offers of purchase with respect to their lands, and notices of termination were sent out to the tenants on the basis that the change of use was going to occur.

What of course happened was that the recession intervened. It became no longer profitable at that time to proceed with either the purchase of the lands or the development of the lands, so these people were left, shall we say, remaining in possession. But as soon as the economy turns around we can expect that new notices of termination will be sent out, the matter will be proceeded with, the lands will be redeveloped and all these individuals will lose their equity in their homes.

What my act, the housing protection act, will do is require that if the developer wishes to get rid of these people, terminate their tenancies, he'll have to go to the municipality and ask the municipality to pass a bylaw under the housing protection act to allow the development to proceed and the termination to occur.

First of all, the municipality is going to have that control over the termination. If the municipality decides to go ahead with permitting that termination to occur for redevelopment, then the residents will have the right to appeal to the Ontario Municipal Board against that decision of the municipality.

We're not doing an absolute prohibition in here. We're having a process that will have to be gone through. The reality of this will be that people who want to redevelop mobile home parks—because basically those are the ones that are under siege. I don't think land-lease communities are ever going to be in this particular situation. That will mean that the owners of these mobile homes will have a good bargaining position with respect to ensuring, if the redevelopment is going to occur, that they get adequate compensation for that redevelopment. I see this as a major step forward in protecting the equity of people who live in these mobile home parks. It's not absolute, but I see it as a major protection, a major advantage for them. As I said, I think it's the most important part of this bill.

1520

Interestingly enough, it will also apply to land-lease communities in the sense that with the amendments to the Landlord and Tenant Act, it will again give people, when their lease expires in a land-lease community, greater security of tenure. That will assist and hopefully make the homes more marketable. I think there's a general agreement that everybody would like to see more marketability with respect to these developments and I think the desire for comprehensive legislation is in order to make this type of development more marketable.

I'm going on about the bill in general, but the other aspect of this legislation under the rental housing protection aspect is the fact that exemptions will be made with respect to conversions to condominiums. That's an important component of reform in this area, having a new Condominium Act passed so that you can have land condominiums. I think that's a very good move. Those conversions will be permitted under the Rental Housing Protection Act, as will be the conversions to what we'd call equity co-ops, where the home owners have control of the park. It's designed—

**Mrs Marland:** That's after they buy it, right?

**Mr Wessenger:** Yes, that's right, if they have a co-op, buy it, just like an equity co-op situation. Obviously,



I would like to see complementary policies developed with respect to the question of assisting conversions to co-ops, at least in some types of co-ops anyway, with respect to some of the perhaps more problematic parks. I think it's one of the longer-term solutions. I'm not the Minister of Housing so I can't make those decisions. I can only give advice, and that's what I would intend to do in this area.

**Mr Daigeler:** I appreciate what you just said, Mr Wessinger. I think those two points that you're interested in above all, this inclusion of the land-lease communities and the inclusion under the housing protection act of the parks, are probably a good idea. Obviously, it's an area that needs some attention. I'm just wondering: Why do we have to have such a long bill in order to do those two things, which seem to be relatively reasonable? That's one question.

The other one: Does the landlord, in case this passes, also have an opportunity to go to the Ontario Municipal Board if, let's say, the municipality decides no, they're not going to redevelop this? I have a park that's smack in the middle of Nepean. It's actually industrial-commercial. As soon as the recession is over, I'm sure the land is going to become extremely valuable again. If that park gets redeveloped or the owner wants to redevelop it and the city says no, what recourse is there for the landlord, obviously whose investment might be dramatically reduced if there's no redevelopment?

**Mr Wessinger:** To the last question, the answer is very easy. Any party has the right to appeal to the Ontario Municipal Board, whether it's the land owner or whether it's the residents, equally.

The first question related to—

**Mr Daigeler:** Why do you need such a long bill?

**Mr Wessinger:** I think you'll find that once all the amendments are made, the bill will be considerably shortened. You will not find it quite as long a bill, quite frankly. It will be substantially shortened as a result of the amendments, but remember this: You're dealing with an area of law, particularly the Landlord and Tenant Act, that's somewhat complex. Therefore, even a simple change requires maybe three or four sections to effect that change because of its relation to other sections. But once it's in final form, it will be a more compact bill. I think the problematic areas will have been eliminated. I think it will be a very tight piece of legislation.

**Mr Daigeler:** One final question before I pass it on to someone else: I've made it clear several times that I do think some important areas have been identified as a problem, and we want to do something about it. At the same time, several of the owners of these communities or lands came to us and said very clearly that if this goes through, and I'm quoting here from one of the submissions, this bill "will put successful parks at risk" and "will not encourage tenants to purchase their parks" and "will not encourage development of future mobile home parks."

I'm not sure whether the owners would have made the same statement if they had known that Mr Wessinger was going to withdraw the provision about the reserve

fund. I'm not sure whether the owners are going to be as strong about this position after the amendments have been put forward by Mr Wessinger. Nevertheless, I would like to hear, again from the ministry, whether it feels that the housing provision, the housing options that mobile home parks and the land-lease communities provide, because they are quite affordable, are going to be threatened in any way by this bill. I think that would be the reverse effect of what we're all trying to do.

I think we're all agreed that this is a housing option that's still there and that should still be encouraged. I don't think we want to pass a bill that's going to make it tougher for people to have affordable housing options. I want some assurance, hopefully from the government, because I'm sure Mr Wessinger is convinced that this won't do it. The government has a broader responsibility. I would like to hear from the government and be reassured that it doesn't see this as a threat to the availability of these affordable housing options.

**Mr Wessinger:** I think I should have a chance to respond to that first, and if the Ministry of Housing wants to add anything, I'm sure it's quite welcome to and I'd invite the policy person.

**Mr Conway:** The alpha and the omega are in the same band anyway.

**Mr Wessinger:** As I said, my bill was much more ambitious initially. I think the influence of the Minister of Housing is to reduce it.

**Mr Conway:** You've both been undressed here today.

**Mr Wessinger:** First of all, if we look at the Landlord and Tenant Act amendments, I can't see any economic impact with respect to the amendments under the Landlord and Tenant Act, quite frankly. They are basically designed to hit at the bad actors in the situation. I don't think hitting at the bad actors is going to create a problem for anyone. There has been some concern expressed about the sign aspect. That's the only aspect I've heard of by the members of the land-lease community with respect to the Landlord and Tenant amendments specifically. We'll be discussing that later and we'll have to see what happens in that situation.

With respect to the Planning Act change, the only impact there is that you're going to require basically site plan approval, which most municipalities now do require. In view of all the problems that have occurred and cost to people as a result of poorly planned developments, I don't think there's any question that requiring them to be developed under good planning is going to enhance them as a living choice. Good developments are going to encourage that in municipalities. Where you have good parks, people will say: "They are good. They do work. We're more willing to accept them."

With respect to the Rental Housing Protection Act, as I said, it's a question of weighing the values. There's no question that for land owners it's going to mean they're going to have to share some of their profits with respect to tenants. But as I said, it's a question of priority. Who has priority, the equity of the home owner in these parks or the land owner who wishes to just get rid of the land and have it redeveloped? That's a value choice, and I

very clearly made my choice in favour of the equity of the home owners.

1530

I think it also will be beneficial that it encourages the conversion of parks to condominiums and equity co-ops. I think that is a good solution and I would hope we will have complementary policies developed to encourage that type of conversion.

I don't know if the ministry wants to add anything. I wanted the opportunity to express my views on this because it's my bill, but if the Ministry of Housing wants to add anything from a policy perspective—

**Mr Conway:** Can I ask a supplementary to Paul on that?

**The Chair:** Has Mr Daigeler completed? I have Mr Conway's name next on the list.

**Mr Daigeler:** Is nobody from the ministry going to say anything? It would have to be Mr Wilson, I think. If he comes back, perhaps I can ask him.

**Mr Conway:** I don't have the expertise that others have on this subject, but I'm quite intrigued listening to Mr Wessenger's response, which was quite coherent and cogent. I'm still left then with the situation that Mr Daigeler raises. I'm sitting here trying to imagine—it's clearly a choice of values, and you've made that case, but what do you do in a situation where you get a case like the Nepean case to which Mr Daigeler referred, or some other situation where there is a very real clash between the interests of the tenants and the interests of the land owner?

As a practical matter, surely what happens—and you're right. You say, "Well, those can be arbitrated by the municipal board." I can just imagine, however, a situation where years pass—

**Mr Mills:** Fast-track.

**Mr Conway:** Fast-track perhaps. I'm trying to imagine what happens in those situations, and there will be some, where you're going to have these trailer parks in places where the—just regional development. We had the group from Stittsville. I'm not going to dig out the information. There were two units; there was a 54 and a 10. The 54 seemed to be kind of together in an area that appeared to be, from what I know of the area, and I know it reasonably well, likely to be left alone for some time, but the other 10 are sitting out there in an area that's zoned highway-commercial, and with any kind of activity in the next little while, I can imagine tremendous development pressures.

Maybe the development pressures will be so great that nobody will want to live there, but on the other hand I can imagine a situation where people say: "It has been home for a number of years, and, yes, it's getting pretty noisy around here, but where else do I go, given my investment in my trailer? I don't own the land." How do you arbitrate this?

Maybe it's not something that we can solve here today, but I can see a situation where the values of the trailer owners and the land owners are so fundamentally opposed and where the only mechanism for arbitration is some kind of a municipal board hearing that may, again

as a practical matter, really discriminate against the mobile home owners.

Conway owns the land. He's a fat-cat developer, and these 10 or 20 or 35 or 62 people living in those trailers, who own the trailers, just haven't got any kind of capacity to raise \$50,000 to retain that smart Paul Wessenger, who's an expert on this and who could fight the battle and win the day at the OMB. The whole thing just isn't worth that kind of expenditure of money and time. Do we need to concern ourselves with—

**Mr Wessenger:** I'll answer this question more from a perspective as if I was acting for the owner of a park. How would I approach it, knowing the law's in effect? I suppose the first thing you say is: "Let's negotiate with the people. What are you willing to take to give up your interest?" Obviously, if that's the cheapest way to do it for me as a developer, I would go and say: "Look, your home is worth \$40,000; I'll give you \$40,000." That's one option, buy them out.

A second option, obviously, to be looked at would be if I had other—suppose I have a park that has additional units. I can say, "Okay, I'll relocate here." That would be a very acceptable solution. I couldn't anticipate the municipality not approving, subject to that condition of a relocation. That's another alternative.

Either a cash buyout or a relocation, I would say, would be the solutions for that, and I would suggest that most people would be happy to get their equity out if it's not a particularly desirable place to live. If they're being awkward, then I suppose these are some of the things that could be dealt with by the municipality in what terms and conditions it sets, if the situation breaks down, but I would think that in most cases people would negotiate. I think most people would be happy to get out of a situation with their equity, and maybe slightly more. Some of them might even be happy to just get out. It depends on the individual circumstances.

If you have a difficult one, if nine out of 10 of them agree, that's obviously going to be a factor in the municipality's decision. It's going to be the views of undoubtedly most of the members of the community.

It's just like any situation we have now. We have lots of situations where parties have to negotiate. We're making another negotiable situation.

**Mr Conway:** I appreciate that, and that is certainly a very reasonable response. The only difficulty I suppose I have in my limited experience in this regard is that there is often, for whatever reason, a want of reason, and we've seen some of it here. One just imagines some of those bad-cat owners—that is, the land owners—who'll just chase you. They don't want to see you; they just want to fight. They feel that this is their absolute, god-given entitlement and they're going to get you out of there—that is, the tenants. I worry a little bit because, and we heard some of it from the deputants, a lot of the tenants are just not in the position to allocate any kind of resources.

I think you gave a good answer, Paul. I just wonder in my mind, given the experiences I've had, whether in fact that would resolve the problem. I hope it does, but I'm



thinking of a case I had about 10 or 15 years ago near the village of Chalk River, a funny situation where people had, decades earlier—as my friend Gordie Mills will know, in those years it primarily was a railroad town. A number of railroad employees decided, I guess we'd call it, to squat. They had squatter's rights. They just built houses on land they didn't own, and nobody bothered. Fifty years later, when Marathon Realty, owning the land, wanted to sell it, the money that had to be coopered together just to tidy—it was a lot of bucks for nine or 10 people, because you had to get surveys. It was just a nightmare.

Enough said. I was really attracted by what you said, and I'm trying to take those theoretical—not theoretical, the views you eloquently expressed—and I'm trying to superimpose those on situations like the one Mr Daigeler imagined. You look at those and you say, "Well, yes, that makes sense; that's what should happen."

What happens if you've got a group of 12 people? "Well, no. We'd like to go, but we can't go, for, among other reasons, we have no other place to go that is affordable for us. It is possible in Nepean to relocate those people, but where do I go? I can't afford any of that."

One of the things that troubles me about this, and it's not pretty in some cases, is that the mobile home parks particularly have developed as an imperfect way to deal with affordable housing for a number of people.

1540

I think of that pair who were here who were cross-examined by Chris Stockwell. You just sit there and you listen. I thought that was a very believable story. Some guy's out working and he just—how does it happen? It starts when he buys a trailer. He doesn't even know the trailer park exists, but he buys the trailer and the guy, who he may know, says: "I'll give you a deal. I'll sell you the trailer, and now there's this guy down the road," up in Concord or down in Trenton or over in Orono, "and he has one of these parks. He's a good guy. I'll make some arrangements."

You say, "All right, surely this guy"—it's \$60,000. I think this was the point Chris was trying to get to. If you've got \$60,000, you're either going to go and get a loan or some kind of a mortgage. Surely somebody's going to ask a few questions. A lot of people, in my experience, don't. They say: "Gordie Mills is a good guy. He sold me this trailer and now I've gone to Conway's Trailer Park down in Orono and I've got a deal. All I know is I bought the thing one day and I've located it the next."

For the first, I'm in, I'm settled. A few years later, I wonder, but I'm busy. I've got a spouse and the kids and a job to worry about and all of a sudden I'm into it, and we heard some of those stories.

I just raise it as a concern, more about the mobile home parks than about the land-lease communities, the newer places that have developed. I imagine on the basis of what I've heard that the Wilmot Creeks and the Sandycove Acres are different categories. They are more, in my mind, a kind of condominium setup. They're not exactly, but these other ones, certainly the ones that I'm

familiar with in eastern Ontario, have just developed, in many cases, kind of harum-scarum, and they're often owned and operated by good people. We heard a number of them here. There are some terrible people apparently, but a lot of good people, and you just sort of think that if you get into some of those values-related questions, the fundamental question remains: "I'm here because it's a low-cost alternative. If I have to go, how much cost is there associated with my moving?" If we're telling him he has to spend \$5,000 he doesn't have to get to another place, what have we done? Maybe it's nothing we can deal with.

**Mr Wessenger:** I'd just like to make a couple of comments. If we look at what's happened in this area, in a sense we think of the old, wide-open, capitalistic system in the past, and these mobile home parks are one of those carryovers, an unregulated area: unregulated by zoning; in effect, unregulated with respect to consumer protection. I think we, as government, have to try to have adequate consumer protection. It's an area where we've not had adequate consumer protection in the past. We've been negligent as a society with respect to this consumer protection, because I think we have to take people as they are and not as we'd like them to be. People are not all knowledgeable to know what to do, and we have to take them as they are. We've been negligent in the past and as a result we have a lot of problems out there. We have to try to do what we can to deal with those problems.

You also said: "Are tenants going to have the knowledge to deal with these issues? Are they still going to be overridden in spite of the legislation?" I would say it would depend on whether the tenants have access to legal clinics. In my prior life I had a lot of dealings with legal clinics and I can say that they represent tenants extremely well with respect to looking after their rights. They are the experts in all of the province of Ontario in this law.

I would say that very few individual lawyers would ever want to get involved. Most of them back away from representing tenants because they don't have the expertise the clinics do. Tenants have been represented very well by clinics, and an area that most lawyers are very happy to leave to the legal clinics is the whole question of tenant representation.

As I've said, I've had a lot of personal experience dealing with legal clinics on the other side, so I know they represent the tenants very well. That's something you have to look at if you want to ensure there's a balance, that you do have the legal clinic services available for tenants. It also helps facilitate agreements and negotiated settlements as well as protect their legal rights.

**Mr Conway:** I appreciate that, but on the basis of the evidence we have heard, can you imagine—I don't know if Mrs Fawcett can help me, but in south Hastings, in east Northumberland, how many legal clinics exist?

**Mr Mills:** In Oshawa there's one.

**Mr Conway:** But I'm talking about an area running from, say, Cobourg, east to Belleville. I live in that famous park—what is it called?—Trenton Trailer Park. I own my own mobile home in that mobile home park and I've got that owner, and I'm trying to engage this process.

**Mr Wessenger:** Trenton Trailer Park is represented by the Northumberland legal clinic. It's too bad they weren't here. The Northumberland legal clinic has impressed upon me very much the importance of getting this legislation through, because they are at the greatest risk of any persons I know of losing their equity. That's the reason I've been pressing this legislation so strongly. I've been down to talk to those people, and I commend them for the fight they're doing in very difficult circumstances and I want to help them.

**Mrs Marland:** Because we're still discussing subsection 1(1), I have to go back to comments Mr Wessenger has made during that discussion. It's very important that we all understand what this bill is addressing. Mr Wessenger said that buildings with foundations are not mobile homes. I think you recall that, Mr Wessenger.

**Mr Wessenger:** Generally, yes.

**Mrs Marland:** You've also said during these hearings that in your private practice as a lawyer you've represented any number of purchasers at Sandycove, so you're very familiar with that as a development.

**Mr Wessenger:** Yes, I am very familiar, and from canvassing it as well.

**Mrs Marland:** You've also referred to Wilmot Creek. How familiar are you with Wilmot Creek?

**Mr Wessenger:** I've never visited Wilmot Creek, but I'm advised that that community has even more permanent structures and higher-market-value structures than Sandycove Acres.

**Mrs Marland:** And in your opinion, Sandycove Acres and Wilmot Creek are not mobile homes.

**Mr Wessenger:** That is my opinion.

**Mrs Marland:** Then you will probably be both surprised and interested to know that both those communities are zoned as mobile home parks.

**Mr Wessenger:** I think the point has been made that for zoning there's a different standard than for the law relating to Landlord and Tenant.

**Mrs Marland:** That's exactly why I want that point clarified that I brought up with Mr Morris, because a lot pivots on that point. As much as we're trying to rush along here—

**Mr Mills:** Rush along? Holy mackerel. Did I miss something?

**Mrs Marland:** —I know when there is something important. I know it because I sense it, not because I have your professional background or Mr Lyle's professional background.

1550

As you are familiar with Sandycove, and Mr Mills can talk about Wilmot Creek, let's just deal with that. If you are saying those are not mobile homes, I would like to know what you would say if I told you that a condition of those developments is that the buildings are mobile; that they have to be built in such a way that they remain mobile, to the degree that they are able to be split and have to be a certain width in order to be transported down the highway. In doing that, the people who buy those homes have to pay 10% more for them; there's a

10% added cost in giving them that faculty for being mobile.

**Mr Wessenger:** I've never considered them mobile homes. The description most often used to describe the dwellings on those premises is modular homes, as distinct from mobile homes.

How were they created? It's an interesting question. I don't know if you want to know the history of it, but let's just say the developers—another alternative would have been to develop a subdivision. There were obviously difficulties initially with developing a subdivision in these areas. I'm just sort of assuming that is the case, but I think it's fair to say—

**Mrs Marland:** If you're going to tell us the history, make sure it's accurate.

**Mr Wessenger:** Well, these were developed with the cooperation of the local municipalities, which thought this type of development was a good idea. The township of Innisfil at that stage was supportive of the development of Sandycove Acres. I assume there would have been some problems if they'd tried to go to a subdivision development. By doing it on the zoning basis it was done under, I would suggest there were probably lesser criteria required for that development.

**Mrs Marland:** Do you know that?

**Mr Wessenger:** Yes, I do know. The road criteria are different for a municipal subdivision than they are for—

**Mrs Marland:** You're saying "I assume," and yet you're trying to give us the history.

**Mr Wessenger:** No. I know the standards are different. If you call it a mobile home community, the standards are different from what they are under a standard subdivision. It allows certain cost savings, and particularly when you're doing a development of a retirement community, it means you would have your investment in a different type of infrastructure than you would have if you had a standard subdivision development.

It's a very good community. They have good social centres, and it works very well as a retirement community. But people in the development industry look and say, "How do you do things?" Lawyers look at situations: "How do you do them?" You fit yourself within those criteria to get what you want to do. That's all I'm saying.

**Mrs Marland:** But you're saying quite a bit, because you're saying different things than you said a couple of hours ago. You're now saying they're not mobile homes, they're modular homes.

**Mr Wessenger:** No, I've never said they were mobile homes down at Sandycove Acres. I've always said that in my opinion they were not mobile homes, and I'm just confirming that they aren't. They've always been described as modular homes.

**Mrs Marland:** Is that a legal opinion, that they're not mobile homes?

**Mr Wessenger:** In my opinion, they're not mobile. You're asking for my opinion, and I've said they're not mobile homes.

**Mr Gary Wilson:** On a point of order, Mr Chair: I don't see that this is achieving anything. Mrs Marland



just seems to be picking up on Mr Wessenger's responses and playing with them. There's no sense that she's—

**The Chair:** And the point of order is?

**Mr Gary Wilson:** The point of order is that we're trying to look at the bill here. There are a lot of tenants, as you've heard from the submissions, who want to see us put this through.

**Mr Mills:** Wait till Monday and they hear about all this. I'm going to do my best to let them know.

**Mrs Marland:** Mr Chairman, if we are considering Mr Wessenger's bill and he is making certain statements, I am not playing with his statements, I'm trying to confirm what the information is that he is trying to give this committee. He told this committee that Sandycove Acres and Wilmot Creek were not mobile homes. I'm telling Mr Wessenger they are mobile homes. They're in property that is zoned as a mobile home park. There is an added cost to these buildings because they have to be able to be split after they have been constructed on a site in order that they retain their mobility and are legally transportable down the highways in our province under the restrictions laid out by the Ministry of Transportation. I am suggesting that what Mr Wessenger is telling this committee is not factual, and it's very serious.

I don't plan to sit here and be part of a discussion where the proponent of the bill is saying things like "In my opinion." I have not visited Wilmot Creek, I have not visited Sandycove Acres, and I am not familiar with those two developments. I depend in dealing with this bill on the information brought to this committee, and I am very concerned that the information being brought, especially by Mr Wessenger, is not correct. I feel very uncomfortable about the fact that blanket statements are being made here that are very important. They are very important to Mr Mills's residents as well, because—

**Mr Mills:** With this stall, it is. Wait until I tell them over the weekend.

**Mrs Marland:** Mr Mills's residents paid an added cost because their buildings couldn't just be put up as a firm structure for ever but had to retain the "mobility." We have a lawyer, Mr Wessenger, who acted on behalf of purchasers and vendors in Sandycove Acres and didn't even know those are mobile homes.

I might give you another example. There is another development in the province, namely, Morningside, a land-lease retirement community near New Hamburg, and those buildings are built onsite and they can be built and then split and then removed. That also is mobile park zoning and they're all on foundations. Yet Mr Wessenger said buildings on foundations are not mobile homes.

This is a very significant argument Mr Wessenger is presenting to this committee. I think it begs the credibility of your argument, Mr Wessenger, and I would like you to explain it to the committee.

**Mr Wessenger:** In my opinion, everything you've raised is irrelevant. But I will say this to the question of whether a mobile home can be defined in the zoning bylaw: You can call anything you like a mobile home in your zoning bylaw; you can define it such that it would include anything.

**Mrs Marland:** Would you say that again?

**Mr Wessenger:** A municipality's zoning bylaw determines the question for zoning of what a mobile home is and what a single-family residence is. It has nothing to do with the provincial Planning Act; it has to do with the municipal bylaws indicated by Mr Morris. He indicated before that the definition of mobiles was set out in the municipal bylaws.

**Mrs Marland:** So defining mobile home zoning is a municipal responsibility. That's what you just said, correct?

**Mr Wessenger:** Zoning is a municipal responsibility in how they define it.

**Mrs Marland:** I understand that. Would you also then say that whether those homes can be split and retain their mobility is a responsibility of the municipality?

**Mr Wessenger:** I don't see how this is relevant to my legislation. Whether a home is transportable on the highway as a modular unit or whether it's stick-built, it still ends up in the same category. It doesn't have any legal effect, how you have a home created. The issue was raised by legal counsel and explained by legal counsel, and we both agree on the definition of the degree of attachment, intention of attachment and all those aspects.

**Mrs Marland:** You agree and which legal counsel—Mr Lyle?—agrees?

**Mr Wessenger:** Yes.

**Mrs Marland:** That's two opinions. There is an old saying, of course, that if you have 10 lawyers in a room you have 10 legal opinions.

Mr Wessenger, do you really believe that the definition of what is a mobile home is not relevant to your legislation?

**Mr Wessenger:** I believe the definition of what is a mobile home in a zoning bylaw is not the determining factor under the Landlord and Tenant Act.

**Mrs Marland:** So you're not interested in clarifying, for the sake of all those people who own mobile homes in Ontario, what is defined as a mobile home?

**Mr Wessenger:** It's really not relevant to my legislation. Whether you're a mobile home or a land-lease community home, my legislation will give you the same rights and the same treatment, so whatever class is not legally significant.

**Mrs Marland:** In your opinion.

**Mr Wessenger:** It's legally significant under the existing law, but not once my amendment passes.

**Mr Mills:** And you wonder why some people drink.  
1600

**Mrs Marland:** The problem is that we had a day and a half of deputations where people came to tell us the problems they experienced in both kinds of development. I thought you were listening to them, and I thought that as your bill was going to take into consideration the rights and therefore deal with equality for everyone, it was important to have a definition of what is actually being addressed here. It would be a bit like saying that Bill 79, the employment equity bill, applies to everybody, and isn't it interesting that Bill 79 was very specific

about to whom it applied? People who look at your Bill 21 have to know who qualifies or to whom that bill is applied in terms of real property and structures. You obviously don't see any importance in having that definition.

Mr Wessenger now wants us to vote against this section he put in, the part subject to section 128.2. As the wording is, I just don't understand how you can amend the Landlord and Tenant Act without understanding whose property is going to be interpreted to come under that act. By removing this section—and it is subject to another section in the bill, and certainly now we all know what 128.2 of the bill says—if we're talking about a reference in the Landlord and Tenant Act to "residential premises," we'd better know before somebody comes along and says, "What is a residential premise?" We don't have that answer this afternoon. I'd like to know who's going to give it to us.

**Mr Wessenger:** If you'd only read the legislation, you'll note item (2)(b) adds a definition of what is included. That's the change. There's no change in "residential premises" under the Landlord and Tenant Act except by the addition of (2)(b), which is "land intended and used as a site for a mobile home or a land-lease community home used for residential purposes, whether or not the landlord also supplies the mobile home." That's the change in the residential premises definition.

**Mrs Marland:** I have read that. I'm asking you, if you want to deal with (2), which isn't actually what is on the floor now—I was going to wait until we got to (2) because we have a very excellent Chairman who likes us to deal with clauses as they're on the floor. If you want me to discuss subsection 1(2) now I will, but I don't think the Chair will permit it.

**Mr Wessenger:** We've had absolutely no discussion on subsection 1(1) all afternoon.

**Mrs Marland:** In your opinion.

**Mr Wessenger:** Ask any objective viewer.

**Mr Mammoliti:** It's my opinion as well.

**Mr Gary Wilson:** And mine.

**Mr Conway:** There's news from Lillehammer, by the way. The Canadians are leading the Americans 2 to 1 in the third period.

**The Chair:** Well, that was a valid point of order.

**Mrs Marland:** Mr Chairman, I'll wait until subsection 1(2) is dealt with to respond.

**Mr Mammoliti:** Are we going to vote now?

**The Chair:** Mr Mills would like to speak.

**Mr Mills:** I'm just going to say for the record how totally fed up I am with this whole charade. Mr Chairman, if this continues, this coming weekend I'm going to spend my entire weekend in Wilmot Creek telling all those people, and I suspect many of them support the Conservative Party, what the member from the Conservative Party has done to stall this bill from proceeding. We had these people come in here and I have 700 signatures on a petition that demands that this bill be passed as expediently as possible. What has happened this afternoon is nothing but stalling, no doubt about it. The mem-

ber is attempting to stop this bill. On the weekend, I'm going to tell all those people in Wilmot Creek, in my riding, exactly what happened. I think it's disgraceful, outrageous, and—well, because of parliamentary language, I am somewhat limited.

That's on the record and I'm going to spread that around.

**Mrs Marland:** You said you didn't do that.

**Mr Mills:** You want to believe it. This is insulting to my intelligence, this game plan. I know what your game is. We all know it. We know what the game being played here is.

**The Chair:** Thank you, Mr Mills.

**Mr Mills:** You know it too, Chairman.

**The Chair:** Further discussion with regard to section 1?

**Mrs Marland:** I think it's fair to respond to comments made during the debate. If Mr Mills feels there is some gamesmanship going on here, I draw to his attention that when he says he's going to get this out over the weekend to the residents of Wilmot Creek, I hope he would get it all out.

**Mr Mills:** That's not gamesmanship.

**Mrs Marland:** The residents of Wilmot Creek will be very interested to know that the proponent of the bill doesn't really know what Wilmot Creek is or what kinds of homes they are. Also, when I read something into the record yesterday and said, "Now that can be circulated by the members to their residents," Mr Mills said, "Oh, we don't do that kind of thing." I'm glad that in 24 hours you've decided to go out and do that kind of thing, Mr Mills.

**Mr Mills:** It was because of your display, Margaret.

**Mr Mammoliti:** He's got no choice.

**The Chair:** Order. Mrs Marland has the floor.

**Mrs Marland:** It's important that the people of Wilmot Creek understand what is going on here.

**Mr Mills:** They'll be writing to you. You'll hear from them.

**Mr Mammoliti:** Why don't you go out there and speak to them, Margaret?

**Mr Mills:** Have a chat with them.

**Mr Mammoliti:** This Sunday. Are you doing anything this Sunday?

**The Chair:** Order.

**Mrs Marland:** I'd be happy to discuss this bill anywhere at any time in this province that I'm able to in terms of what it is we're dealing with here.

**Mr Mills:** They'd eat her up for dinner.

**Mrs Marland:** I'm just an ordinary, little old housewife and mother.

**Mr Fletcher:** You're not that old, Margaret.

**Mr Mills:** I'm a little old pensioner.

**Mrs Marland:** I'm not a lawyer and I'm not a municipal planner, but I have a lot of common sense and I know a little bit about law and a little bit about municipal planning. I've learned a lot about everybody's rights



and I don't like legislation that has an unequal impact on the people of this province when there could be a piece of legislation brought into this House that addresses and resolves some of the horrible problems we heard about yesterday morning and all day Tuesday. There are situations in this province that, there's no question, have to be resolved, but it's appalling that we have the kind of charade we have with this bill. Whether or not we like it, as Mr Conway has said, in his experience—and his experience is about 10 years longer than mine, and mine is nine years. I have never seen a private bill dealt with the way this is.

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If you're going to take this elephant-gun-to-kill-the-fly approach to try to resolve the problems of some of these horrific stories we've heard, obviously, in doing that you create inequality, and that's the concern we have. We want the horrible problems resolved, but we don't want people like the young couple who didn't get to speak, who are from the Brockville area—I'm not sure if I mentioned them yesterday, but I think they have only 21 units. They have a wonderful operation in their mobile home park, and there's no question about what kind of homes they are.

We have one of our deputations sitting here again today, from Kenron Estates, a Mr Craig Maxfield. He's got a family business where everybody is happy.

We've got parks around this province that work very well, and if you look at the thousands and thousands of units where there are no problems, what we are doing with this legislation is—it's actually happened in a number of pieces of the current NDP government's legislation. They take something and throw this huge blanket over everything in order to resolve some small patch in the middle, rather than dealing specifically with that specific area or that specific category of problem.

I have talked to people who have investments of this type in other parts of this country and in the States, and there is a way to solve the problems and make these kinds of communities work. It doesn't have to be the route this bill is taking. This bill, because it's so convoluted—and it was very interesting that Mr Wessenger a little while ago said something about the legal clinics and the rights of tenants. I'm very glad when tenants who do not have the money to pay for a high-priced lawyer have access to legal aid, but I really get upset when those legal clinic representatives come in here and place on the record time and time again that they are tenant activists.

**Mr Gary Wilson:** On a point of order, Mr Chair: I don't see what this discussion has to do with the bill before us. I'd like a ruling from you.

**The Chair:** I'm sure members would try to restrict their comments to section 1, but the tradition has been to permit a rather wide-ranging debate during section 1.

**Mr Gary Wilson:** But how wide? There's a limit to the amount of time that can be spent on it.

**Mrs Marland:** I don't believe you raised that point of order when Mr Wessenger referred to legal clinics earlier this afternoon, did you?

**Mr Gary Wilson:** The point is that we have had that

discussion already, and I don't see how this is helping in looking at this bill.

**The Chair:** All members would know that during debate we shouldn't be repetitive and should stick to the matter at hand, and Mrs Marland will do that, I'm sure.

**Mrs Marland:** This is the first time I've spoken about the legal clinics, but Mr Wessenger spoke about them earlier today, and he said he would put tenants' rights ahead of property rights. Hansard will show that.

This is my first opportunity to make a comment about the legal clinics and the rights of tenants. As I said, and I'll say it again, this legislation, when it goes through the way it's currently drafted, is going to have to be interpreted by people all over this province, be they lawyers or not. There will be tenants in this province who will be going to the legal clinics for help, and I'm glad that tenants who can't afford lawyers and legal advice have a legal clinic to go to, but what really upsets me is when those legal clinics come in here and say they are tenants' activists, and they're paid for by the government.

**Mr Mammoliti:** On a point of order, Mr Chair: I assume we're still on subsection 1(1) of Bill 21. I have no idea what legal clinics and what Mrs Marland is talking about have to do with this section. I would like Mrs Marland, if she's going to make these comments, to refer to the clause itself and perhaps be a little more specific about what her comments have to do with the clause.

**Mrs Marland:** I'd be happy to. The motion that's before us is subsection 1(1) of the bill. Section 1 of the Landlord and Tenant Act is being referred to in the motion that's on the floor and is being moved by Mr Wessenger, and Mr Wessenger now wants us to vote totally against this section of the bill.

When that takes place, there will be a requirement to interpret that section when it becomes a statute of this province. When that happens, there will be people who will need help with that interpretation, and there may be people who, in needing that help, will seek legal advice. When they go to seek legal advice, they may have to go to a legal clinic. In fact, Mr Wessenger referred earlier this afternoon to the availability of legal clinics, in response to a matter raised by Mr Conway, I think.

The point is that legal clinics have to be available also, in my opinion, to the little mom-and-pop operation, if you want a more colloquial description of a trailer or mobile home park in this province, where there are no problems. We've got a bill here that's giving all the rights to the tenants under the Landlord and Tenant Act, because these are rights enshrined in the Landlord and Tenant Act and everybody who knows that act knows it's really a tenants' act.

In some sections of that act I agree with the protection of tenants, but you cannot say, in a free country where people save up their lifetime savings to invest in a little trailer park or a mobile park, that the people who own the land lose all their rights to their tenants. You can't do that unless you're a pure, dyed-in-the-wool, irrefutable socialist.

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**Mr White:** I knew that was coming.

**Mr Wessenger:** She had to put the S-word in there somewhere.

**Mr Mills:** That's as bad as having leprosy.

**Mr Mammoliti:** On a point of order, Mr Chair: Well, there are a number of things that have come up over the last minute or two. The word "socialist" has come up. She's referred to the bill as a whole. What does that have to do with the subsection we're on?

**The Chair:** First, I would rule that I think "socialist" is parliamentary.

**Mr Mammoliti:** I didn't say it wasn't. I just don't know what that has to do with the subsection.

**The Chair:** I'm sure the member will try to restrict her comments to section 1 of the bill.

**Mrs Marland:** Mr Chairman, there are even socialists in this room whom I like.

**Mr Mammoliti:** I move that if she strays one more time she gets kicked out.

**Mrs Marland:** You're sounding like Bhaduria, suggesting that I should be kicked out. The good thing about a democracy, of course, is that we're all entitled to our own opinion. We're all elected—

**The Chair:** And we all speak through the Chair.

**Mrs Marland:** —and we all speak through the Chair, and we all may make comments on legislation that we think may or may not work.

My concern about this bill is that it's far too far-reaching and all-encompassing to result in equity to both kinds of property owners. When we talk about subsection 1(1), we're talking about the Landlord and Tenant Act and how it applies, and that is my concern.

**The Chair:** Questions, comments regarding 1(1)? If not, shall 1(1) carry?

**Mrs Marland:** Recorded vote.

**Mr Conway:** We have an amendment, don't we? The sponsor of the bill is recommending that we vote in the negative?

**Mr Wessenger:** That is what I'm recommending.

**Mr Conway:** It's finally clear.

**The Chair:** All in favour of 1(1)? All those opposed?

**Mr White:** Isn't there an obligation to vote, Chair?

**Mrs Marland:** Yes, there is an obligation to vote.

**Ayes**

Conway, Fawcett, Fletcher, Mammoliti, Mills, Wessenger, White.

**Nays**

Carr, Marland.

**The Chair:** The section is defeated and will be struck out.

Subsection 1(2): I believe we have an amendment.

**Mr Wessenger:** I move that clause (b) of the definition of "residential premises" in section 1 of the Landlord and Tenant Act, as set out in subsection 1(2) of the bill, be amended by adding "or the land-lease community home" at the end.

This is a technical requirement. It's something that should have been in the initial bill, but it was missed in the first draft.

**Mr Conway:** Just to be clear, that would then read, "land intended and used as a site for a mobile home or a land-lease community home used for residential purposes, whether or not the landlord also supplies the mobile home or the land-lease community home."

**Mr Wessenger:** That's right.

**The Chair:** Are there questions, comments or amendments to Mr Wessenger's amendment?

**Mrs Marland:** I'd like to ask a question of the ministerial staff. Could you give me a definition of "residential premises" as it pertains now in this motion? I realize it's the definition in the Landlord and Tenant Act. Pardon me, it isn't; it's as set out in 1(2) of this bill, isn't it? Could you give me a definition of what "residential premises" means in this motion?

**Mr Lyle:** I'm not entirely sure what the question is.

**Mrs Marland:** I'll rephrase it. We have a motion on the floor, subsection 1(2) of the bill, section 1 of the Landlord and Tenant Act. Mr Wessenger has moved that clause (b) of the definition of "residential premises" in section 1 of the Landlord and Tenant Act, as set out in subsection 1(2) of the bill, be amended by adding "or the land-lease community home" at the end. What is the definition of "residential premises" as it's worded in this motion?

**Mr Lyle:** This is broadening the definition of "residential premises." Currently, land that is intended for use as a site for a mobile home in which people are living is covered by the Landlord and Tenant Act. This broadens the definition of "residential premises" in the Landlord and Tenant Act to include a site for a land-lease community home.

**Mrs Marland:** I understand that that's what this is doing, but as the wording includes "residential premises," I'm asking you to give me a definition of what a residential premise is in the Landlord and Tenant Act.

**Mr Lyle:** I can read a portion of the definition of "residential premises" in the Landlord and Tenant Act, if that would be of assistance.

**Mrs Marland:** Yes, please; it would.

**Mr Lyle:** "Residential premises" means,

"(a) any premises used or intended for use for residential purposes, including accommodation in a boarding house, rooming house or lodging house,

"(b) land intended and used as a site for a mobile home used for residential purposes, whether or not the landlord also supplies the mobile home."

It then goes on to say "but does not include," and then there are nine subclauses which are specific exclusions from the definition of "residential premises."

**Mrs Marland:** So it's quite lengthy, and the exclusions are all part of the definition.

**Mr Lyle:** They certainly clarify the definition; that's true.

**Mrs Marland:** Mr Chairman, could I ask that we



stand this section down until I can read the definition that's referred to it this motion?

**The Chair:** Mrs Marland is asking for unanimous consent to stand down Mr Wessenger's amendment to subsection 1(2). Do I have agreement? No.

**Mrs Marland:** Then we'll have to read the exclusions, as I'm asking for the definition of "residential premises."

**Mr Lyle:** Okay. Starting with "but does not include, "(c) premises occupied for business or agricultural purposes with living accommodation attached under a single lease unless the tenant—"

**Mrs Marland:** Wait. That's in a business building; is that what that means?

**Mr Lyle:** That's correct.

"—unless the tenant occupying the living accommodation is a person other than the person occupying the premises for business or agricultural purposes, in which case the living accommodation shall be deemed residential premises,

"(d) such other class or classes of accommodation as may be designated by the regulations,

"(e) premises whose occupant or occupants are required to share a bathroom or kitchen facility with the owner, the owner's spouse, child or parent, or the spouse's child or parent, where the owner, spouse, child or parent lives in the building in which the premises are located,

"(f) accommodation provided by an educational institution to its students or staff where,

"(i) the accommodation is provided primarily to persons under the age of majority, or

"(ii) all major questions related to the accommodation are decided after consultation with a council or association representing the residents,

"unless the accommodation has its own self-contained bathroom and kitchen facilities and is intended for year-round occupation by full-time students or staff and members of their households,

"(g) accommodation provided to the travelling and vacationing public in a hotel, motel or motor hotel, resort, lodge, tourist camp, cottage or cabin establishment, inn, campground, trailer park, tourist home, bed and breakfast establishment or farm vacation home,

"(h) accommodation that is subject to the Public Hospitals Act, the Private Hospitals Act, the Community Psychiatric Hospitals Act, the Mental Hospitals Act, the Homes for Special Care Act, the Homes for the Aged and Rest Homes Act, the Homes for Retarded Persons Act, the Nursing Homes Act, the Ministry of Correctional Services Act, the Charitable Institutions Act, the Child and Family Services Act, the Developmental Services Act, the Ministry of Health Act or the Ministry of Community and Social Services Act,

"(i) accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes—"

**Mrs Marland:** Like a halfway home, something like that?

**Mr Lyle:** Correct. "—or for the purpose of receiving care,

"(j) short-term accommodation provided as emergency shelter, or

"(k) accommodation, whether situated on or off a farm, where occupancy of the premises is conditional upon the occupant continuing to be employed on the farm."

That's the end of the definition of residential premises.  
1630

**Mrs Marland:** Thank you. In this motion where we're adding a land-lease community home, do you have a definition of a land-lease community home?

**Mr Lyle:** Section 2 of the bill has a definition of the land-lease community home.

**Mrs Marland:** That's the section we're coming to next. Okay.

Where we have the definition of a residential premise that will now be under the Landlord and Tenant Act, what will be the impact of Bill 120, under which any single-family home in the province as of right may have an accessory apartment or garden suite? If we take this definition of residential premise, does it mean that in these kinds of developments Bill 21 is addressing, if there is a basement under what is either or not a mobile home, that Bill 120 will permit you in fact have an apartment in that location?

**Mr Lyle:** My understanding of the apartments-in-houses provisions of Bill 120 is that it refers to single, detached, semi-detached and row houses. I don't believe it would fit within—

**Mrs Marland:** The only restriction in Bill 120 is if they're on a septic system, so if one of these residential premises being described in this section in this motion are not on a septic system, I would suggest that as a single-family home, which they are, they are entitled to have a basement apartment, a granny suite on grade, or a garden suite, whatever description you want to use.

**Mr Lyle:** It's really difficult for me to comment on that because, to be quite honest, I'm not that familiar with the apartments-in-houses provisions in Bill 120.

**Mrs Marland:** I appreciate your honesty.

That is a very important question, because if we are now taking land-lease community homes under the Landlord and Tenant Act, we'd better be sure what can be a land-lease community home and whether there are any restrictions on that. I would think a member like Mr Mills, who is concerned about his constituents in Wilmot Creek, and Mr Wessenger, who is concerned, he says, about his constituents in Sandycove Acres, must be concerned about a concurrent piece of legislation which will also be going through clause-by-clause in this very committee starting March 7, which will permit as of right—which means regardless of any municipal zoning. It supersedes any of the existing acts whatsoever, whether you talk about the Planning Act, the Municipal Act, any of the powers that exist today that were given by the province to municipalities to plan their communities.

This supersedes all of that, so technically and factually, if I have a home in Sandycove Acres or Wilmot Creek

and I happen to have a basement, I'm going to be able to bring my family there and set up in my basement. Or better still, I may buy some of these mobile homes with basements or with enough property—actually, there's no restriction about the amount of property on grade for granny suites. In any event, we may be able to make investments buying these homes and doubling the occupancy.

The fact that Mr Lyle can't answer my question might indicate that I should be asking the question to the parliamentary assistant, through the Chair. Mr Wilson, you might know how you're going to deal with accessory apartments as it pertains to those developments that are referred to in this motion that's on the floor now.

**Mr White:** You can't have a basement apartment in a mobile home, Margaret.

**Mrs Marland:** Would you like to sit down and make that statement on the record, Mr White?

**Mr Gary Wilson:** I'd like to hear Mr Wessenger's view on this. I don't recall what he said. It's his bill, and I want to see what he says.

**Mrs Marland:** Mr Chairman, this is beautiful. I'm asking a question, through the Chair, to the parliamentary assistant. Mr Wilson, whether you like it or not, you're paid \$18,000 a year to be the parliamentary assistant to the Minister of Housing, and I'm asking—

**Mr Wessenger:** Mr Chair, could I make a point of order here? I think this question is out of order because it refers to Bill 120. It doesn't refer to my Bill 21. I'd be happy to give my opinion on that if I happen to be sitting on Bill 120, but it's not relevant to my bill because my bill does not deal with 120.

**Mrs Marland:** Oh, are we getting a little nervous here? We don't want to discuss anything that's relevant to these land-lease community homes that might be impacted by concurrent legislation that's going through this very same committee? Is this too big a question for you to deal with?

**The Chair:** I see nothing out of order. It's quite permissible for members to ask questions about what the impact of other legislation is, either proposed or in existence.

1640

**Mrs Marland:** So I ask the parliamentary assistant to the Minister of Housing, have you ever even discussed it? You've had this marvellous Bill 21 coming since May 19 of last year, I think it was. You've had basement apartments discussed going back to the green paper, I think it was, released on housing intensification. Actually, housing intensification was originally a white paper by the Liberal government, and then it became a green paper by your government. Can you tell me, Mr Wilson, through the Chair, that the Ministry of Housing has never discussed the impact of basement apartments in this kind of development?

**Mr Mills:** It's just a crawl space. If you think you're going to get an apartment—

*Interjections.*

**Mr Gary Wilson:** I don't know about that, Mr Chair.

**Mrs Marland:** So the answer is that you don't know.

**Mr Gary Wilson:** That's right.

**Mrs Marland:** You don't know if your ministry has ever discussed that as a potential problem.

**Mr Mammoliti:** That's what he said: He doesn't know. How many times do you have to ask him? He said he doesn't know.

**The Chair:** Thank you for your help, Mr Mammoliti.

**Mrs Marland:** And yet you're willing to put the land-lease community homes under the Landlord and Tenant Act.

I bring you back to what happened yesterday. When Mr Daigeler was honest enough to ask about a description of the different types of homes, I'm sure some of the members will recall this man who corrected me also and said, "We have full basements." I later spoke to the gentleman in the hall and he described his full basement. So I'm sorry if you think it's a crawl space. This man has a full and finished basement.

The funny thing about Bill 120 as it pertains to basement apartments is that it doesn't refer to size.

**Mr Fletcher:** It refers to the municipality, though.

**Mrs Marland:** It does not refer to the fact that you can't have a basement apartment unless you have a certain area. When, with this motion when you're taking the land-lease community home under the Landlord and Tenant Act, I think it is very significant and you've got to consider what the impact is of the other legislation. When I talk to the people at Wilmot Creek, I'll tell them their community could perhaps double its occupancy after Bill 120 is passed, because they can all start establishing their granny flats on grade, if they don't happen to have basements. We're going to have just a wonderful community. We're going to have grannies in the mobile home and we're going to have—

**Mrs Fawcett:** I can think of one granny who won't be.

**Mr Conway:** Margaret, I'll tell you, if Andy Brandt had ever sicked you on me when I was the minister, I would have surrendered.

**Mr White:** Sean Conway calls it quits.

**Mrs Marland:** In fairness, I have asked a relevant question to Mr Lyle.

**Mr Gary Wilson:** Excuse me, Mr Chairman—

**Mrs Marland:** Excuse me. I still have the floor. Do you wish to try a point of order, Mr Wilson?

**Mr Mammoliti:** There's got to be a rule on this. Let's change the standing orders. How do we do that, Mr Chair? "No more than six hours."

**Mr Wessenger:** As I indicated earlier, I thought this whole process should be changed.

**Mrs Marland:** Mr Chairman, I have asked a very important question of Mr Lyle, who is the counsel to the Ministry of Housing. In fairness, he didn't know I was going to ask the question, and he doesn't have the answer. I've also asked the same question to the parliamentary assistant to the Minister of Housing, who also honestly said he didn't know. I respect the fact that he



said that, which confirms what I've said about all of us, that we can't be expected to know everything. But when those questions are asked, and it is a significant question that's justifiable in this hearing, I think we should not proceed with this section until I have that answer. I'm quite happy for Mr Lyle and Mr Wilson to get that answer and that we stand down this section until we have the answer.

**The Chair:** Would you like to reply to Mrs Marland's question?

**Mr Gary Wilson:** I'll follow Mr Wessenger's lead.

**Mr Wessenger:** I don't think it warrants a reply, because that is a question that should properly be asked for Bill 120 and not with respect to my bill. The Landlord and Tenant Act, in my opinion, does not—I don't know. I don't think even amendments in Bill 120 would relate to the question of basement apartments. I would think it would come under the Planning Act, not under the Landlord and Tenant Act.

**Mrs Marland:** Just a moment. Mr Chairman, perhaps Mr Wessenger—well, no, you weren't sitting on the committee that was reviewing Bill 120.

**Mr Gary Wilson:** Neither were you, Margaret, to be fair.

**Mrs Marland:** I would like to tell you that in the government's opinion, one of the most important sections in Bill 120 is putting basement apartments under the Landlord and Tenant Act, so there is a direct connection. How can you miss that?

**Mr Gary Wilson:** Mr Chair, just to put this to rest, partly because I'd never realized—

**Mrs Marland:** I wish you knew your bill.

**Mr Gary Wilson:** —that Mrs Marland's grasp of Bill 120 was so shaky. Talking about doubling the occupancy of these places when they don't have municipal septic systems means 120 doesn't apply to them. It's as simple as that.

**The Chair:** Thank you, Mr Wilson, for that clarification.

**Mr Gary Wilson:** I thought you knew more about it, Margaret.

**Mrs Marland:** Mr Wilson, when you review the Hansard, you will notice that about 20 minutes ago I did say the only exception was where these buildings and lots were on a septic system. How did you miss it? I don't know that these developments are all on septic systems. If you can tell me that every one of these developments is on its own septic system, which is how the bill reads—are all these developments around the province on septic systems?

*Interjection.*

**Mrs Marland:** All right. The answer from people who are in the industry is that all these systems are not on septic systems. So I'm sorry, Mr Mills and Mr Wilson, you're wrong.

Mr Wilson, if you're making a statement as parliamentary assistant to the minister that they're all on septic systems and they're not, it's a little unfortunate. I'm not in the Ministry of Housing and I'm dependent on the

information you give us. If you're giving us inaccurate information, it's unfortunate. Why don't you say you don't know whether they're all on septic systems? If there are some on septic systems, they will be able to add accessory apartments.

Mr Wilson, if you don't care about this, that's your choice. I care about it.

I suggest to you again, Mr Chair, that this section that is on the floor now is very, very critical, and if the answers are not available, I think we should be able to stand down that section as it pertains to the questions I've already put on the record. Do we have an agreement to stand it down and get the answers?

**The Chair:** Are you asking that this section be stood down, or that the amendment be stood down?

**Mrs Marland:** I'm asking for the amendment to be stood down, which I have already read once, but I'm happy to read it again.

**The Chair:** No. Mr Wessenger's amendment to this section: Do we have unanimous consent? No, we don't.

**Mrs Marland:** All right. If you won't stand it down to get the answers to what I've already asked, I still want a definition of a land-lease community home.

How can we pass a section that refers to another section that we haven't even passed yet? How can we pass a section that refers to land-lease community home before we define what a land-lease community home is in the next section? Maybe Mr Wessenger would like to reorder his sections so that at least we know what we're talking about.

Would somebody answer the question about how we can pass a definition that doesn't exist? We are passing a definition that doesn't exist. Would you agree, Mr Chairman?

**The Chair:** I do know that following the completion of clause-by-clause, bills are reordered by legal counsel if that is necessary.

1650

**Mrs Marland:** In this motion that's on the floor, it says, "clause (b) of the definition of 'residential premises' in section 1 of the Landlord and Tenant Act, as set out in subsection 1(2) of the bill, be amended by adding 'or the land-lease community home' at the end."

I'm suggesting respectfully, to you as the Chair, and perhaps to Mr Wessenger as the proponent of the bill, that as of this time there is no definition in this bill of a land-lease community home, so how can that be passed? The definition is in the next section. Maybe legal counsel could answer the question.

**The Chair:** My opinion and my advice is that there's nothing out of order.

**Mrs Marland:** There's nothing out of order, but how much sense does it make to pass something when we don't know what it is?

**Mr Wessenger:** Just because you can't read, Margaret.

**Mrs Marland:** Oh, you're really a sweetheart.

**Mr Mammoliti:** He's been sitting there for six hours listening to this stuff.

**The Chair:** Order. Mrs Marland has the floor.

**Mr Mammoliti:** I would never be able to sit there like that.

**Mr Carr:** The good news is that a year from now none of you will be sitting here for anything, so it won't matter much. You'll be retired down in Florida, sitting in your mobile home.

**The Chair:** Order. It must be getting close to 5. We are speaking, just so members will recall, to Mr Wessenger's amendment to subsection 1(2).

**Mrs Marland:** Mr Chairman, I would be the first to place on the record that I do not have the education Mr Wessenger has, but I have enough education that I wouldn't say to him what he just said to me. I would like to tell Mr Wessenger that I can read, and I would like to give him the opportunity to withdraw that comment.

**Mr Wessenger:** I will acknowledge that. I was quite excited to say that. Maybe it's a refusal to try to deal with this legislation in a non-obstructionist manner.

**Mr Carr:** It's not obstruction.

**Mr Mills:** Of course it's obstruction.

**The Chair:** We should not be imputing motives.

**Mr Carr:** Get it right the first time. It wasn't us who screwed it up: 33-odd amendments. They're not ours. You're the guys who screwed it up, not us.

**The Chair:** Order.

**Mrs Marland:** If this were such a straightforward bill, and if there had been thought put into it before it was drafted, you wouldn't have a 24-section bill with 33 amendments. I don't appreciate the fact that Mr Wessenger will not withdraw his comment. If Mr Wessenger thinks I cannot read, at least he might acknowledge—

**The Chair:** Perhaps we should get back to discussing the particular subsection.

**Mrs Marland:** All right, let's do that. I'd like to tell him I can count. We're dealing with subsection 1(2) of the bill, and it isn't until section 2 of the bill that we get a definition of a land-lease community home. I'm asking, through the Chair to the ministry staff, to tell me, if we pass subsection 1(2) of the bill, section 1 of the Landlord and Tenant Act, clause (b) etc, what land-lease community home is. I'm entitled to know; the record is entitled to show it.

**The Chair:** What precisely was the question?

**Mrs Marland:** I'm asking for a definition. We've got some wording here. I'd like to know, in the motion that's

on the floor, what "land-lease community home" is. I don't mind who answers.

**Mr Mammoliti:** Direct it, Margaret. Whom are you directing your question to?

**Mrs Marland:** Oh, I'd be happy to direct it.

**The Chair:** Through the Chair.

**Mrs Marland:** Mr Chairman, I already did say that if the ministry staff would like to answer with a definition for me of what "land-lease community home" is.

**The Chair:** Members may ask any questions they wish of anyone they wish, but no one is compelled to answer questions.

**Mrs Marland:** You mean if I ask the ministry staff, they're not compelled to answer?

**The Chair:** That's correct.

**Mr Lyle:** I'm happy to answer. If section 2 of the bill is passed, the definition of "land-lease community home" will be as it's set out in section 2 of the bill.

**Mrs Marland:** And what is that?

**Mr Lyle:** As set out, "land-lease community home" means any dwelling that is a permanent structure where the owner of the dwelling leases the land used or intended for use as the site for the dwelling, but does not include a mobile home."

**Mrs Marland:** So if "land-lease community home" does not include a mobile home, we're back to the point I've been making all afternoon, that the land-lease communities everybody is familiar with, Sandycove and Wilmot Creek, which are mobile homes, would not be covered under this section. Is that correct?

**Mr Fletcher:** Are you asking Mr Wessenger?

**Mrs Marland:** Maybe it would be nice to get an answer from Mr Wessenger, because it is his bill, we are told. Mr Wessenger, I'm asking you.

**Mr Wessenger:** What question is that?

**Mr White:** Oh, no.

**Mr Mammoliti:** How do you do it, Margaret? What vitamins do you take?

**Mrs Marland:** Did you want me to repeat the question?

**Mr Wessenger:** If you could repeat it quickly, in five or 10 words.

**The Chair:** It now being 5 of the clock, we will adjourn to March 7 at 1 o'clock to take up the ministry presentation in regard to Bill 120.

The committee adjourned at 1658.





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### STANDING COMMITTEE ON GENERAL GOVERNMENT

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Sorbara, Gregory S. (York Centre L)

**\*Wessenger, Paul (Simcoe Centre ND)**

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*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

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Conway, Sean G. (Renfrew North/-Nord L) for Mr Grandmaître

Fawcett, Joan M. (Northumberland L) for Mr Sorbara

Marland, Margaret (Mississauga South/-Sud PC) for Mr David Johnson

Mills, Gordon (Durham East/-Est ND) for Mr Morrow

Wilson, Gary (Kingston and The Islands/Kingston et Les Iles ND) for Mr Dadamo

#### **Also taking part / Autres participants et participantes:**

Ministry of Housing:

Lyle, Michael, legal counsel

Morris, Noah, policy adviser, existing housing stock, housing policy branch

Wilson, Gary, parliamentary assistant to the minister

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Filion, Sibylle, legislative counsel





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**Legislative Assembly  
of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Monday 7 March 1994

**Journal  
des débats  
(Hansard)**

Lundi 7 mars 1994

**Standing committee on  
general government**

Residents' Rights Act, 1993

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
Clerk: Franco Carrozza

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Monday 7 March 1994

Lundi 7 mars 1994

The committee met at 1325 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993

LOI DE 1993 MODIFIANT  
DES LOIS EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** The purpose of the committee meeting this afternoon is to deal with clause-by-clause examination of Bill 120.

I have a motion that was put forward by Mr Daigeler the last time we met. It indicates that this afternoon, as we commence the consideration of Bill 120, we will hear from the Ministry of Housing and the Ministry of Community and Social Services.

**Clerk of the Committee (Mr Franco Carrozza):** Ministry of Health.

**The Chair:** Did I say Housing? I meant Health. Thank you.

## MINISTRY OF HEALTH

**The Chair:** We begin with the Ministry of Health. Mr Ennis and Ms Hill, good afternoon. Although the Chair has no direct instructions from the committee, if you have an opening statement, that would be fine.

**Ms Jessica Hill:** I do. Thank you.

On behalf of the Minister of Health, the Honourable Ruth Grier, Michael Ennis and I are very pleased to present the Ministry of Health's position on Bill 120.

As the acting assistant deputy minister of the newly created mental health programs and services area in the Ministry of Health, I will focus mainly on the impact of Bill 120 on supportive housing programs for the seriously mentally ill population. Michael Ennis then will follow, discussing the impact on long-term care programs.

First and foremost, I would like to say that the Ministry of Health supports the intent of Bill 120 to extend rights and protections currently available to most tenants in Ontario to vulnerable populations residing in facilities funded by the Ministry of Health.

From the perspective of the seriously mentally ill population residing in supportive housing programs, the need for security of tenure and privacy protection is a fundamental right. Care should not be a prerequisite to obtaining accommodation or a factor in continuing the tenancy.

Extending these protections will eliminate any current inequalities that may exist based on disability due to mental illness. Right now, not every tenant has the same rights under the Landlord and Tenant Act. Some tenants have protection, while others do not.

For your information, programs funded through my area provide support services to the mentally ill population to assist them in living in the community. Many of the seriously mentally ill residing in supportive housing programs have been discharged from the psychiatric facilities or inpatient units of general hospitals. Most of this population has had repeated stays within the psychiatric hospital system, and living in supportive housing programs affords them the opportunity to live as full participants in the community.

Supportive housing programs offer services in a variety of settings. For instance, services can range from independent apartments with offsite support service workers, to a group-living situation with onsite, 24-hour staff.

Accommodation, whether independent or in a group setting, can either be permanent or transitional in nature. However, because of the varied needs of individuals, most programs that offer transitional rehabilitative accommodation tend not to have a fixed length of stay.

We agree that no accommodation intended as permanent should be able to claim an exemption from the Landlord and Tenant Act for the purposes of therapy and rehabilitation, such as homes for special care and other permanent supportive housing programs.

I would also like to inform the committee that the role of accommodation and support services in housing programs funded by the Ministry of Health is being considered in the context of mental health reform. The document Putting People First supports delinking of support services from housing. We recognize that this direction will require change in the field.

The Ministry of Health has undertaken significant policy and program initiatives to improve the quality and accessibility of both accommodation and care in Ontario. Recently, we've been working with the Ministry of Housing on the development of guidelines which provide local housing providers and mental health service providers advice and information to assist them to work collaboratively in order to provide services to the seriously mentally ill.

These guidelines will ensure that clients have access to adequate, safe, affordable, secure and permanent accommodation which is in keeping with their choice and gives clients full coverage under LTA. Support services will be

individualized and flexible to meet the changing needs of clients.

Within the context of the mental health reform strategy and current planning efforts with regard to the provision of housing and related support services, the ministry has also undertaken a review of the homes for special care program. The goal of the review process is to integrate homes for special care into the continuum of supportive housing for the seriously mentally ill. A key principle of reform is to give homes for special care clients the same protections under LTA as other tenants in the province and ultimately the same range of supports.

We recognize that transitional rehabilitation programs will need to undergo some changes as a result of Bill 120 and we will have to work with the programs to address issues.

A number of transitional rehabilitative supportive housing providers have raised a number of concerns about the impact of LTA coverage on their ability to provide appropriate services.

To qualify for exemption under LTA, a program must meet a two-part test under the therapy and rehabilitation exemption clause: that the average length of stay in the premises is not more than six months and that the accommodation is not the occupant's principal residence.

The wording of part two of the test needs, in our view, to be revised since clients in our rehabilitation program normally do not have another principal residence and the rehabilitation program becomes their principal residence for the duration of their stay in the program. We understand that removing the principal residence test in the bill is being considered. We are pleased about this, as this was one concern expressed by a number of service providers.

We agree that a six-month average length of stay should be required for programs to qualify for an exemption from the Landlord and Tenant Act. The Ministry of Health believes that there is a role for transitional residences as a bridge between the institution and living in the community, but we do not want programs designed to be transitional to take on the features of a permanent residence. We view a six-month average length of stay as a reasonable boundary between transitional and permanent accommodation.

To date, the Ministry of Health has funded housing programs primarily to ensure that consumers of mental health services have adequate housing in the community. We understand that many of our housing programs have also provided rehabilitative services. At this time, we need to clearly determine what role residential rehabilitation programs should play in a reformed mental health system. This determination will be an integral part of the mental health reform process.

However, assuming that there is a role for intensive residential rehabilitation or therapeutic programs, we believe that a six-month time frame should be sufficient to accomplish the intended purposes. If we find that a longer time frame is necessary, an appropriate legislative framework for such programs may be required.

We anticipate the most significant impact will be on

the high-support transitional group homes. Our best estimate is that there are 20 such programs serving approximately 200 clients.

It is very important to recognize the cyclical nature of some mental illnesses and the variable support needs of clients. While transitional housing may have some value, long-term, stable housing is fundamental to wellbeing.

However, a number of concerns have been raised by some of our programs about operating under the LTA: the eviction process, the effect on the provision of care services, and the program provider's ability to terminate tenancy to make space for new clients. I'll comment on each of these.

The eviction process: The Ministry of Health does not support the use of eviction as a means to respond to problems related to someone's psychiatric disability. If the concerns or behaviours are related to a person's mental illness, we hope the programs would first attempt to work with their clients to address the underlying problem. In addition, crisis support services, case management and peer support networks should be brought to bear in response to problematic behaviour. If these efforts are not successful, there is recourse under the Mental Health Act or the police may need to be involved.

From a system perspective, it is questionable what could be gained from evicting someone, removing their existing supports when they may need them the most. If the behaviour is just generally disruptive, the question is, should someone with a psychiatric disability be held to a higher standard of behaviour than any other member of the community whose tenancy is under the LTA?

That clients could opt out of support services is another concern. One of the primary outcomes the Ministry of Health wants to see from its housing support programs is a stable housing situation for consumers. If programs meet the exemption criteria and if the intent of the service is primarily for purposes other than housing, then the programs could require program participation as a criterion of residence. It is quite clear that the LTA will add impetus to the delinking of support services from the provision of housing. This is a direction that is being supported by our ministry. This also reflects the trend in the mental health field.

Another concern which has been raised is the impact on the program's ability to have clients move to create space for new clients. If the primary purpose of this service is to ensure a stable housing situation, then clients not leaving is of no concern. If the program's primary purpose is other than housing, they can require the client to move on if they meet the exemption criteria under the LTA. In addition, it may not be appropriate to force residents with stable housing arrangements to move to suit service providers' purposes. We have many examples of staff moving, providing supports outside of the residence to other consumers.

Homes for special care operators have also raised some concerns around their ability to continue to provide care to clients, issues such as 24-hour coverage, access to rooms for cleaning and monitoring of medications. Under the LTA, the landlord is required to provide 24 hours' notice to enter a unit except in an emergency and if the



tenancy agreement requires the landlord to clean the premises.

On the issue of cleaning residence units, which is currently a service provided by operators, we believe that this can be dealt with through a tenancy agreement which may specify conditions under which the landlord can enter clients' rooms for cleaning or maintenance.

We believe that the issue of resident care can be addressed through service agreements between operators and clients. The ministry will need to work closely with clients and operators to establish guidelines to assist them in developing these agreements.

The service agreements will spell out those services provided to clients, eg, assistance with clients' medication. As well, residents' service plans could be reviewed periodically, for instance, biannually, to ensure that services continue to respond to changing needs of clients. The service agreement would allow a client to opt out of services without impacting on their tenancy.

The Ministry of Health feels these concerns would be better managed through the planning, program design and changes within the mental health reform process. These efforts will be assisted greatly through consultation and collaboration with service providers, consumers and family members.

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**Mr Michael Ennis:** I would like to make a very few brief comments just to add to what Jessica has already indicated. Again, on behalf of the Ministry of Health, I'm going to address specifically the area of long-term care.

The Ministry of Health wishes to see all residents in any form of long-term care accommodation have sufficient tenancy rights. Long-term care deals with two types of resident accommodation, the first type being long-term care facilities, which would be nursing homes and homes for the aged. Bill 120 has not removed from the list of exempted statutes the Nursing Homes Act, the Homes for the Aged and Rest Homes Act or the Charitable Institutions Act. Consequently, nursing homes and homes for the aged remain exempt from the Landlord and Tenant Act and Rent Control Act. Residents in these facilities will continue to be protected by extensive legislation and regulation that addresses areas such as fee levels, security of tenure and so on.

All resident copayments, for example, are set by the province and enforced through regulation. In addition, no resident can be discharged unless a doctor's order is issued and appropriate alternative placement is arranged. There are many other provisions in both the legislation and the regulation that would protect rights of residents in nursing homes and homes for the aged.

In regard to supportive housing, the other population that we relate to in terms of long-term care involves many individuals such as elderly persons, those individuals with physical disabilities or acquired brain injury and those living with HIV-AIDS. With few exceptions, this accommodation is permanent housing. For these individuals, it is the ministry's view that the residents should be entitled to the full protection afforded by the Landlord and Tenant Act.

We recognize that there may be some isolated implementation problems resulting from this extension of the Landlord and Tenant Act coverage. However, since these situations represent only a very small minority of situations, they would be better managed through the program alternatives as opposed to opening the window for any more exemptions under the Landlord and Tenant Act.

It has been proposed, I understand, that the component of the exemption criteria which is related to the test for permanence of accommodation be deleted. This deletion is acceptable, provided that we still maintain the less-than-six-months requirement. The overwhelming majority of our supportive housing exceeds this time period and would therefore not be eligible for an exemption in any case. This would ensure that our residents continue to receive and would receive in the future the full protection intended by Bill 120.

In conclusion, the original wording and the exemption have been satisfactory, and also the flexibility in some of the proposed amendments still remains consistent with the direction of long-term care.

**The Chair:** Thank you. I believe the members have some questions. Mr Cordiano.

**Mr Joseph Cordiano (Lawrence):** To say the least, I'm somewhat concerned about the response that we're getting from the Ministry of Health with respect to its satisfaction regarding the time frame, the six-month period for exemption.

What we heard on this committee repeatedly from care providers or those who operate rehab centres was that in fact the period of time that was necessary for most of their tenants to go through a program was, on the average, 18 months. Effectively, you are, as I see it, ignoring that concern. How do you explain that? Are they completely off base? Are they trying to make a case for something that is invalid?

I have a great deal of difficulty understanding this, because it wasn't just one or two presenters, but we heard this repeatedly, I say, over four weeks of hearings from just about every presenter who came before this committee, and you're telling us that's not valid.

**Mr Ennis:** Mr Chairman, perhaps I could respond first of all, and Jessica may wish to also add to it, with your permission.

The section that involves six months would not apply to many of the programs that are in existence today. You've just heard our presentations. There are different programs that have been set up using the Ministry of Health, for example, for different purposes. Many of them are set up for permanent accommodation, so that where a program is already designed for long-term stay, it would already not be in that category of the six months.

**Mr Cordiano:** No, that's not what we heard, sir. I'm sorry, I have to contradict what you're saying because the testimony before this committee was very clear. These centres were set up and their funding mandate, as the presenters made it clear to us, was designed to bring people through a rehab process. Their stay was temporary in nature, and after that period of time they would move



on to more permanent housing. What I'm hearing from you is that your vision of what these centres do is completely opposite to what they are in fact doing today. I heard you speak of the emphasis on delinking and that this would provide an impetus for changing the rehab centres in the way they provide services now. It gives me great concern, I've got to tell you, because what you're telling me is that there's a policy on the rush here, a policy that's designed by the Ministry of Housing to change the very nature of the rehab centres and the way they operate, that by the tenure of housing you're changing the very nature of those rehab centres.

Delinking services from the housing component is going to result in centres that now are just basically housing centres. That's not the way I believe these operators saw themselves originally. They're providing a rehabilitation service and housing is a component of that, but it's temporary housing.

If there is this fundamental change, in my opinion it's totally inappropriate to do it through a back-door policy, and for that reason I would have loved to have seen the Minister of Housing come before the committee and explain policy. I don't mean to put officials in that position, because I don't think it's appropriate. It would have been rather more appropriate to have the minister here and tell us that the policy has changed, that it's fundamentally different from what it was.

**Ms Hill:** The policy direction that the Ministry of Health has for mental health reform specifically speaks to the delinking of support services from housing. This has been a policy direction that in fact has evolved over quite a long period of time. I'm not sure if you're referring to those programs as well as long-term care programs.

What we see is that there has been quite a movement in the field, over time, from viewing housing and rehabilitation services, supports, as being integral or interwoven. As I mentioned earlier, we see about 20 programs or 200 clients out of the 4,000 clients who are served by our system as falling into this high-support group home situation where the integration of housing and rehabilitation supports still remains the direction that they use.

**Mr Cordiano:** I understand that, but what I'm suggesting is that the people who are affected, the operators of these homes, of these rehab centres, at no time indicated that they were coming before us because they had a concern with the Ministry of Health's new direction. They had a concern because the very nature of their programs was that the rug is being taken out from under their feet as we speak and that Bill 120 would impact directly on their ability to provide services.

It's kind of leaving them to fend for themselves and changing the very nature of what they do by a policy that's designed to deal with housing matters and not a policy that's designed to deal with care services. That's what I think is very frustrating, because if the Ministry of Health redirects these groups, changes their funding criteria, changes a number of other aspects of what they do and has a stated policy to do that and, as well, consults people before it would do this—I mean, this is a back-door approach to changing policy on something that is fundamentally important for those rehab centres.

I cannot believe that we're hearing this.

**Ms Hill:** I think our experience is not that they were entirely designed as rehabilitation centres, at least in the mental health field; in many instances they were created as housing with rehabilitation supports. Many of them have moved to fall under LTA through their own choice, over time.

We also don't see at this point that there is any reason to deny the residents of those housing programs the same protections under LTA and that the service provision is ultimately clearly that it's going to be damaged by this provision. We think both can be offered. Many of our programs in fact do offer both: the program and are governed under LTA.

1350

**Mr Cordiano:** Quite frankly, when we heard from various groups—let me use as an example groups that were dealing with alcoholics. This struck me particularly as relevant. If you had no way of removing someone from the home or if the length of stay for the exemption was not longer than six months, and then some of the clients who were staying with these centres needed longer than six months—quite a few, as a matter of fact. If I recall, the average length of stay in some centres was—

**Interjection:** Twenty-four, I think.

**Mr Cordiano:** Well, 18 months was the average that was often quoted. They could simply not function as a rehabilitation centre. I think that's incompatible with the view that's presented by Bill 120. That's one case of which we speak. There are many others; that's just to give you an example. That think, is a fundamental problem for those centres providing that kind of therapeutic rehabilitative process for recovering alcoholics.

**Ms Hill:** I believe the programs you're referring to are the recovery homes, which fall under the Ministry of Community and Social Services. We currently have two programs that would fall under this category, one which is clearly an addiction treatment program—Stonehenge—which has had quite a long length of stay but currently has been going through its own program review process and expects that it will fall under six months.

**Mr David Johnson (Don Mills):** I wonder if we could go back to the beginning, because there has been a great deal of interest in terms of the Ministry of Health and its involvement in the bill right from the beginning. We know that during the Lightman commission there was some involvement, as I understand it, of this ministry.

**Interjection.**

**Mr David Johnson:** Perhaps we could start with that. I assume the ministry was involved during the process of the Lightman commission.

**Mr Ennis:** Yes, that's correct. It's going back a few years in time, but there was a lot of involvement in terms of the commission itself. A lot of time was spent by Dr Lightman himself, meeting with ministry staff who are involved in all the program areas, talking about the potential impact of any recommendations he might make. A lot of input was provided at that time and it was an ongoing process.

**Mr David Johnson:** The Lightman commission then



did report and make certain recommendations. This bill is not a perfect reflection, though, I think you would agree, of the Lightman commission in that the Lightman commission, I sense, delved into many areas that this bill—I wasn't here at the particular time, but certainly what they tell me is that Lightman went way beyond what this bill does. So this bill has a certain component, I guess, some people say a small component, of the recommendations of the Lightman commission.

Following the Lightman report and leading through the process of coming up to Bill 120 through Bill 90—you didn't have any involvement with Bill 90, I presume. Bill 90 was one half of Bill 120, just to clear the record there.

**Mr Ennis:** As an individual, I didn't, but I'm sure other staff or other individuals—

**Mr David Johnson:** The ministry had involvement?

**Mr Ennis:** Yes.

**Mr David Johnson:** Are you telling me the ministry had involvement with Bill 90?

**Mr Ennis:** We can get the answer for you, but at this point, I didn't personally have involvement with it.

**Mr David Johnson:** But you don't know.

**Mr Ennis:** The one I have been involved with is the Lightman commission and the recommendations.

**Mr David Johnson:** All right. Now we have Bill 120, which is a combination of some of Lightman and Bill 90. Could you specifically tell us what the ministry's involvement has been with Bill 120?

**Mr Ennis:** Yes, I can respond to that. First of all, several ministries set up an interministry committee that was involved—Health, Community and Social Services, Housing and other individuals—in terms of looking at the recommendations and preparing some—

**Mr David Johnson:** Can you give us a date on when that was?

**Mr Ennis:** I'm sorry, I can't. It goes back as I mentioned earlier. I think the committee has been in process for over a year and a half, at least as I remember in terms of the meetings that I've attended. It's been at least that long. It was a bureaucratic committee of senior ministry staff from various ministries with various subgroups of staff, with Housing, Health and Comsoc being the primary ones.

**Mr David Johnson:** This goes back over a year and a half ago?

**Mr Ennis:** At least that, yes.

**Mr David Johnson:** This was a result leading from the Lightman commission?

**Mr Ennis:** That's right.

**Mr David Johnson:** Was this specifically to draft Bill 120?

**Mr Ennis:** Our position, our request that we had was to look at how we would make recommendations to our ministers in terms of how the recommendations of Dr Lightman could be met, and where they couldn't be met, to ensure that the spirit and the intent of his recommendations were carried out. That was the task we had, so our staff would go through the various recommendations and

look at options and so on.

**Mr David Johnson:** In terms of the final draft of Bill 120, what we see before us today, was the Ministry of Health fully aware, was the Ministry of Health one of the ministries that fully signed off? Were you an equal partner with Housing in that? Did you share with all the recommendations that are contained in Bill 120?

**Mr Ennis:** The Ministry of Health did participate in the process and the actual submission that was made. There were some amendments made just prior to the introduction of the bill, we did express a few concerns, but generally the bill itself stands as we worked on it.

**Mr David Johnson:** Could you tell us today what amendments were introduced that you expressed some concern about?

**Mr Ennis:** One of them that was introduced was the six-month provision. I don't think we would indicate that it was a concern; it was more an adjustment to reflect some of the needs of some of the other programs, such as some of the short-stay programs, such as centres for women's shelters and so on. That was one of the changes that was introduced at that point, the six-month provision.

**Mr David Johnson:** Were you in support or in opposition to it?

**Mr Ennis:** The ministry supports the six-month provision, yes.

**Mr David Johnson:** When you introduced this topic in general, you said there were some amendments that the ministry was concerned about, and now you have specifically mentioned the six-month exemption period, so I presumed from that that you were concerned about the six-month exemption period. Am I right or am I wrong?

**Mr Ennis:** Yes, some of the concerns because our programs are very different, and you've heard from the description earlier and also in response to Mr Cordiano's question that even within one ministry the programs are very different in terms of their history and how they were designed and the client group they serve.

In some cases, on the provisions of the bill there are no issues at all. I mentioned earlier that for long-term care supportive housing, in almost all the cases it's a separate housing initiative that services are provided to independently so it isn't an issue here.

In some of the programs where in fact people are in for more long-term care or the therapeutic side that Jessica was addressing, that's where some of the concerns we expressed were in terms of just managing the programs themselves, in terms of individuals who may have been in a program for a period of time and have reached a point where they either can benefit no further or wish to leave, and those were some of the concerns we expressed.

1400

**Mr David Johnson:** What did you think the exemption should be then? If either you or Jessica or whoever didn't think it should be six months, what did you think it should be?

**Ms Hill:** I think the concern around a time frame has to do with that in the mental health field, it's a changing

field and we do see changes already being made. The changes that were introduced require us continually to examine how our field is evolving and what, in our housing support programs, are rehabilitative elements, that we have enough information about them that demonstrates that they need to exist beyond a six-month time frame.

In that examination, our feeling is that it is feasible to operate either through an exempted status or under the Landlord and Tenant Act provisions and offer rehabilitation programs, so overall the concerns that we raised at that point have been addressed throughout and we continue to work on them.

Our support for the legislation stands. As I said in my comments, this will take both evaluation and, through the mental health reform process, determining whether residential treatment and rehabilitation is a component of the system that's separate from housing, that is not in any way intended to be a permanent housing, whether that needs a different kind of legislative framework to support it. If we find that for optimum results for our client population it is a longer time frame that's needed, and we really don't have that evidence yet, then we will have to move to create the proper framework.

**Mr David Johnson:** Are you familiar with the Scarborough General Hospital and its program?

**Ms Hill:** You might have to give me a few more details.

**Mr David Johnson:** They call it the Manse Road Group Home and they made a presentation. I thought perhaps you might have followed the deputations, but I guess you didn't. At any rate, the Scarborough General Hospital made a deputation and they described the Manse Road Group Home, for example, as "a residential rehabilitative program...transitional, with an indefinite stay policy," sharing household accommodations; cooperative living for 10 adults. They service the severely mentally ill adults with "schizophrenia, manic depression, chronic depression and post-traumatic stress."

They appeared before us and they say that in terms of the six months, "the six-month average length of stay will demand that programs select only those" residents "who can effectively move to greater independent living within six months." Essentially, what I hear them saying is that this will probably result in their criteria being tightened or changed so that certain people will be excluded and other people, those who they feel can, to use their words, "effectively move to greater independent living within six months," then they will select them.

Here's a hospital that has had this program since 1987. I think they know what they're talking about. They're funded by you. I wonder what your reaction is to that.

**Ms Hill:** I think it does reflect the perspective of some of the providers. However, we have other programs that we're funding that, as a system, in fact are demonstrating some different results. For instance, we have a program in Toronto that is a collaboration between Queen Street psychiatric hospital and two community mental health programs that are taking long-term-stay inpatients who have lived in a hospital for over 15 years, placing

them in independent living situations with high supports, delinked, and are showing excellent results.

I think that what I described as the field changing, we're learning new things all the time. I'm not sure whether this would be true of the Scarborough General program but many of the programs were set up primarily as housing with rehab, initially transitional, but in the early days when there were very few other housing options, they moved into offering a form of permanent accommodation, and with very little clarity in terms of our direction, quite frankly, in terms of their being both housing and rehab.

It is over the last, I'd say, five to seven years that the mental health field itself is recommending more and more delinking of accommodation and support services because it is quite clear that having permanent accommodation contributes to people's mental health.

**Mr David Johnson:** Basically you're saying that you're not concerned because if they change their criteria, somebody else will pick up the people they're not picking up. Is that what I hear you saying?

**Ms Hill:** No, I wouldn't say I wasn't concerned; I'd say we'd have to work with them to determine whether they in fact could not achieve their program goals by offering protections under the LTA, because many of our group homes do offer both currently.

**Mr David Johnson:** What they say about LTA is that the eviction process of the Landlord and Tenant Act, and I quote them again, can take six to eight weeks, and other people have actually said a lot longer than that. "Residents who are verbally and physically aggressive can continue to intimidate co-residents while the eviction process proceeds through the court system. In a shared living setting, this climate of hostility can have serious effects on the mental health of the remaining consumers in the program. Imagine...a consumer with severe post-traumatic stress from physical and sexual abuse who must now tolerate the presence of a potential assault day and night" for two or three months.

I don't understand how you can work with that kind of situation. Maybe you can tell us.

**Ms Hill:** I'm not a service provider, so I don't want to give the committee the impression that I know this as a front-line worker. Certainly the staff in our area and other housing providers have indicated to us that in a situation where a person is living in a group home situation—not all people are suitable for a group living situation; it's a difficult thing to live with other people, and other housing programs have deliberately developed other options because of that—and is becoming progressively more disruptive, the question of whether that person's treatment needs or care needs are being sufficiently met in that situation, they're moving into crisis, for instance, needs to be addressed by bringing the appropriate supports to the situation. If they reject all the supports that are brought forward, whether that's a crisis response team or case management or peer supports, then there are provisions under the Mental Health Act.

**Mr David Johnson:** In the speech you made at the beginning, in your presentation, you mention the peer



support or you mention the Mental Health Act provisions or you mention the police, but during the process of the public deputation time, we heard many deputations that said the Mental Health Act is of virtually no assistance and that the police cannot deal with this situation, so in effect they're left to dangle in the breeze. I wonder if you could be more specific. There may be people here today who might be listening, or at least for Hansard: How is the Mental Health Act going to help?

For example, in the case I've quoted to you from the Scarborough General Hospital, the case I read out to you where there's somebody suffering from abuse, the other people who live in this accommodation, and there are one or two or however many individuals who are being very aggressive and intimidating the residents, how does the Mental Health Act or how do the police specifically—can you tell us what steps could be addressed through either of those to help?

**Ms Hill:** I'm not well versed in every single provision under the Mental Health Act. If you would like someone to speak to that, I'd like to ask a member of our legal department to come forward and speak to that.

**Mr David Johnson:** That's fine by me.

**Mr Gary Wilson (Kingston and The Islands):** Well, within the time.

**The Chair:** I'm sorry, I didn't hear.

**Mrs Margaret Marland (Mississauga South):** We need somebody else to answer the question.

**Mr David Johnson:** The deputant has asked if a legal person, from the Ministry of Health I presume, could come forward, because this legal person has an answer.

**The Chair:** Certainly.

**Ms Gail Czukar:** My name is Gail Czukar and I'm legal counsel with the Ministry of Health.

I heard the question in some detail. I think the question was, and you can correct me if I'm wrong, if you have a person in a group home setting who is presenting a safety threat to other residents in the home, how does the Mental Health Act provide for that?

**Mr David Johnson:** Yes. Let me just read this again, if I could, "Residents who are verbally and physically aggressive can continue to intimidate co-residents while the eviction process proceeds through the court system." So there could be a real or perceived threat against the other people who live there. "In a shared living setting, this climate of hostility can have serious effects on the mental health of the remaining consumers in the program. Imagine...a consumer with severe post-traumatic stress from physical and sexual abuse who must now tolerate the presence of a potential assault day and night" for two or three months.

How is the Mental Health Act or the police going to deal with that situation?

**Ms Czukar:** I can't speak for how the police would deal with it. I guess the police would deal with it in the same way that they deal with threats to safety in any situation. They have powers under the Mental Health Act, which I can clarify to some extent although I don't have the act here with me, to take someone to a psychiatric

facility to be examined if they believe that the person has a mental disorder and is acting in a particular way that's threatening to others. Of course, the person can be committed after examination if they are threatening the safety of others or themselves.

1410

**Mr David Johnson:** I'm just trying to recall what the people from the Scarborough General Hospital said. I can recall other operators saying that the practicality of the situation, when you're living there, is that those acts are fine, they're somewhere out there, but they're practically limited or of no use. I wonder if you can tell us specifically the time frame and the actions one would have to go through to remove a threat to the other people who are living in shared accommodation. We're talking about shared accommodation. We're talking about people who are very close together on a day-by-day basis and here's a real threat in their midst, and what steps, what timing they would have to go through to eliminate that threat.

**Ms Czukar:** The police can remove someone on the spot who they think needs to be taken for an examination. They can then take the person to a psychiatric facility for psychiatric assessment. After, I think, 72 hours—I'm sorry, I don't have the act here—if the person is assessed as presenting a danger to themselves or others, they can be committed. If the police don't see the situation as an immediate threat, then the options are for someone who knows the facts to go before a justice of the peace, swear an information and the person to be taken then by the police for a psychiatric assessment. So those are the options where there is a true threat to the safety of others by someone in the home.

**Mr David Johnson:** I'm asking you to suppose something here, but what do you suppose would be the reaction of the police if they were called into such a residence, with 10 people? Do you suppose it's legitimate that the police would sort of automatically haul somebody off?

**Ms Czukar:** I would hope that they wouldn't; I would hope that they would, as usual, use their good judgement to deal with the situation. They're trained in this sort of thing. That's what they're experts in, and that's what they are supposed to do. I think they respond sensitively. We hope they respond sensitively. We put a lot of resources into having them respond sensitively to those kinds of situations.

**Mr David Johnson:** I guess it depends how you define "sensibly" or "with sensitivity." The operators were saying—

**Mr Gary Wilson:** That's some operators, Dave. Come on, let's be fair about this.

**Mr David Johnson:** Well, the operators that have been before us here in deputations by and large—

**Mr Gary Wilson:** Not all operators, let's be fair; not by and large.

**Mr David Johnson:** —are saying that if you have to depend on the police, and the police do a great job but this is a very sensitive area, the police are of practically no value in terms of dealing with these situations.

**Ms Czukar:** Of course, that's not something our

programs can deal with if the police aren't equipped to deal with the situation.

**Mr David Johnson:** No, but the problem is that Bill 120 is essentially setting this in motion.

**Mr Gary Wilson:** The statement we've heard—

**The Chair:** Order.

**Mr David Johnson:** I've got a number of other questions, but maybe in fairness we should allow some other people. I don't know, can I come back again?

**The Chair:** I'm sure you can.

**Mr Cordiano:** Just to come back to this question of delinking of services from housing, I understand the direction you're going in from a ministry point of view, but the basic problem is still a question of the housing circumstances and whether someone lives in a rooming- or boarding-house or lives in one of these rehabilitative centres. The common theme that runs through all of them is that they're living in shared accommodation, accommodation with common areas that are shared, such as kitchen facilities, bathroom facilities, etc.

It is because of that shared living space that we have heard many of the deputants who have come before us express concern about the very nature of their programs being undermined by the length-of-stay provisions, by the fact that they would not be able to deal with someone who is acting in a way that's hostile to other residents. Not that we've heard too many program providers come before us and say that they themselves had problems; there weren't too many instances where they could not deal with the circumstances themselves. But what they really, really had a great deal of difficulty with was the six-month exemption provision, that once the Landlord and Tenant Act was imposed on them, you might get people who want to stay in those facilities past the point at which they were deemed to have been looked after and their problem solved.

I think what I'm hearing from the Ministry of Health, and obviously this is coming from the Ministry of Housing indirectly by some sort of edict under Bill 120, is that the programs that are currently in place, the rehabilitation centres and the agencies that provide them, are a thing of the past, basically, and that you want to move to this new era of delinking services from housing.

What troubles me—again I have to say this: I'm a little amazed at the way this is unfolding under Bill 120, the impact that this will have, and perhaps some of those providers were aware of this, but I still say that the way this is resulting, the circumstances having been changed, is really quite astounding to me. You're going to change the very nature of those programs though a housing bill, in effect. This bill will change the nature of those rehabilitation centres from transitional housing to permanent housing. It's quite obvious to me that that's what the intent is here, and I can't see how you can explain otherwise.

Again I express my frustration at not having the Ministry of Health come before us to simply state what the policy of the government is towards these rehabilitation centres, because quite frankly it's quite evident that what these rehabilitation centres have provided to this

point is no longer necessary in the eyes of the Ministry of Health, by and large, that you are moving to delink services from housing and that these rehabilitation centres will now be viewed as permanent places to live.

**Ms Hill:** I think actually I've probably answered this already in my comments, but what I think I said was that we do see a delinking process already taking place in the field, that this has evolved over many years and that what it has done is forced the clarity of choice between being permanent housing or being something other than housing—permanent housing—which is transitional, rehabilitative in nature.

What I've also said is that if we discover through continual review of what I've described as essentially 20 agencies, 200 spaces out of 4,000 spaces that we currently fund in the community, that there is a group of those that demonstrate very clear, strong client outcomes and program outcomes that require longer than a six-month average, which I think also needs to be taken into account—it's not a fixed six-month period, it's a six-month average, and people do progress through these programs at a differential rate. But if we in fact discover that it is a longer average that's required overall for the programs, and I don't think we know that yet—

**Mr Cordiano:** How can you move forward on—

**The Chair:** Let her present her answer, Mr Cordiano.

**Ms Hill:** Because they have had a mixed mandate and they were initially set up as housing programs with rehabilitative services.

If we in fact discover that, then we would have to look at other legislative frameworks that actually make them look more like treatment programs in the community as opposed to housing.

**Mr Cordiano:** Do you not think it's inappropriate to move forward with a piece of legislation not knowing what the impact on these providers will be? You yourself are saying, "We will examine this, review it." I just find it astounding that we would have legislation that will alter so fundamentally the programs we're taking about.

I think these programs are absolutely critical in our communities. You're allowing housing to supersede the concerns of the rehabilitation aspects of what these agencies are providing. I cannot fathom that thought. I think it's totally inappropriate for a government to proceed in that fashion, to bring about legislation not knowing whether the length of time we're dealing with for exemptions is appropriate or not. This is the point that has been made over and over again, that the real impact is not known.

1420

**Ms Hill:** Mr Cordiano, we have also stated that we are currently funding 73 agencies that offer a variety of supportive housing programs. What we mean by those supportive housing programs are rehabilitation supports to housing. Of those 4,000 spaces, we're talking right now about 200. So the evidence on the other side of the equation is that rehabilitation supports are being offered under LTA in a delinked way and, in some instances, in an integrated way. It is not clear to us—the burden of proof is needed on both sides of the equation and right



now we have enough evidence to believe that we can proceed with the average six-month exemption and, at the same time, recognize that the clients will benefit from the tenancy security.

**Mr Cordiano:** I'm incredulous because there weren't too many groups—

*Interjection.*

**Mr Cordiano:** There may have been one, Mr Wilson.

**Mr Gary Wilson:** On a point of order, Mr Chair: This question is a bit circular to begin with, but Mr Cordiano already had a chance. He's obviously grasping for other questions. I thought we were going to go with the rotation here within an hour for each of the ministries that we asked to come before us and that was why this arrangement was set up.

**The Chair:** I'm not aware of a time limit.

**Mr Cordiano:** There was no time limit.

**Mr Gary Wilson:** I think Mr Cordiano asked about time, so did Mr Johnson, when they were giving their questions, "Have we got any time left?" There is the understanding that we have a rotation here.

**The Chair:** The Chair is just operating under the motion that was made by Mr Daigeler some weeks ago.

**Mrs Marland:** You want to limit the clarification of your bill?

**Mr Gary Wilson:** Well, because of who is being clarified, yes.

**The Chair:** Order. The Chair is just operating under the motion that was adopted by the committee.

**Mr Gary Wilson:** No, I think the discussion, though, included the idea of a time limit of an hour for each delegation.

**The Chair:** Maybe my memory is foggy, but the clerk is checking Hansard.

**Mrs Marland:** It's such a great bill. You don't have to be so defensive.

**Mr Gary Wilson:** Excuse me, but we're trying to get to the bill. I mean, we've gone through these hearings, we've heard these things already.

**The Chair:** This is a time for members to get clarification of questions from the ministries that are coming before us this afternoon. It is difficult for the Chair to decide what is relevant on behalf of the committee.

**Mr Gary Wilson:** Even though you put these questions several times, the same one, the same answers?

**The Chair:** Order. Mr Cordiano, you may continue, but I note that we have five members still on the list.

**Mr Cordiano:** I will try to conclude my remarks as quickly as possible, Mr Chairman. It's unfortunate that there are people who do not—further facts confuse them. That's not the case with some of us. We would like to get further clarification.

The obvious gulf, if you will, between the number of deputants who came before us and expressed concern and the number of people you're saying, or the number of programs that you have within your funding arrangements, don't seem to square with what we heard. This is the trouble I'm having, that repeatedly the calls and

letters to my office indicate great concern with provisions of this bill dealing with rehabilitation centres. They are extremely concerned.

Some have suggested they will exit the field because they're not housing providers. They don't see themselves as housing providers, permanent housing; that's not an area they plan to stay in. That's another impact that I imagine the Ministry of Health has not thought about—or has thought about.

I would like you to elaborate a little on the fact that there may be many agencies that no longer provide the kind of service they're providing because they simply do not want to become permanent housing providers. That's not a role they see themselves playing any part in, and the loss of their services will impact on what the Ministry of Health can do for people in that field.

**Ms Hill:** I'm not sure what the question is.

**Mr Cordiano:** The question's very clear. As agencies drop off providing the services that they now provide, you're going to have a shortage of agencies providing those services. Explain to me how you're not going to make that up.

**Mr Gary Wilson:** Yes, and if the sun doesn't rise tomorrow we're going to be cold.

**Mr Cordiano:** Mr Wilson, please don't interrupt. You'll have your say in the next election.

**Ms Hill:** Of the 20 programs that I referred to that are high support, it is not clear to us that they cannot operate under the LTA provisions and provide their programs. We will be in a process of discussion with each of those program providers to determine what they see as the changes they would have to make.

It is not clear to us that they can't offer both, since we have other group homes that do operate under LTA and do offer the programs. I'm afraid that until we sit down and have those discussions with each of them, it is not clear that the changes would have to be made or that in fact they would have to close. No one has told us that they are planning to get out of the business.

**Mr Cordiano:** My question was, why wasn't there a consultation process before this legislation was brought about? I just find that startling. Good governance means talking to people out there. I'm not blaming you. This is why I expressed my concern at the beginning that we didn't have the Minister of Health before us, because this is a policy question. It's not one for which you can necessarily provide answers. It's a political decision that has been made. The decision not to consult is a political one. I think clearly here that the Ministry of Health did not consult with those service providers, and I think at the end of the day that's all that can be said.

I see at least the Minister of Housing is here.

**Mr George Mammoliti (Yorkview):** I'm going to touch on pretty much the same issue that Mr Cordiano touched on, and that's the six-month provision, and be a little more specific in my concerns in terms of rehabilitation towards drug addicts, both illicit and prescription drug addicts, and ask you, first of all, whether or not you have any experience in this area whatsoever.

**Ms Hill:** The two programs that we fund in the

addictions field that would fall under this area are Stonehenge Therapeutic Community and the Vanier Centre for Women. Our understanding from Stonehenge, which has had quite a long length of stay, is that they're currently doing a total program review and see that their program will fall under the six-month exemption. The recovery homes fall under the Ministry of Community and Social Services.

**Mr Mammoliti:** Okay, and it's not appropriate for me to ask you these questions in terms of what agencies that particular ministry funds because—

**Ms Hill:** I don't have that information.

**Mr Mammoliti:** —I'll ask them when they come forward. Are you familiar with glue-sniffing at all?

**Ms Hill:** No, I'm not, personally.

**Mr Mammoliti:** You're not. Are you familiar with the addiction of glue-sniffing? It's not humorous. It's a growing epidemic, both in the aboriginal community and in Metro here. Are you familiar with how long it takes to treat somebody who's addicted to glue?

**Ms Hill:** No, I'm not.

**Mr Mammoliti:** Heroin? Are you addicted to—sorry, are you familiar with heroin addiction at all?

**Ms Hill:** No, I'm not.

**Mr Mammoliti:** Okay. The reason I ask these questions is because I'm familiar with the stakeholders who help these individuals who are addicted to a number of these drugs, and the people I've been talking to certainly would not want to be restricted to the six months. Some of them are telling me that it could actually take up to two years to treat somebody effectively and that what this might do, if passed the way it is, is actually push people out the door and not necessarily treat them as they should be treated.

While some of them are telling you that they're trying to revamp the way they do things and change the way they do things, I don't think it's because they actually want to. I know that outpatient care is an issue, and some people feel that you can deal with some of these addictions through outpatient care but others believe that you can't, and they have been successful.

1430

Let me just finish my comment before I ask you the question. What would happen in a drug rehabilitation clinic, for instance, which has a program of two years for heroin addicts or crack addicts and is now of course under the scope of the new legislation, if after a six-month stay one of their clients decides that they feel better but yet it's their house and they're going to stay there and, after a 10-year period, say, or a five- to 10-year period, all those homes are filled with individuals who don't necessarily need that treatment? What does that do to that particular rehabilitation clinic? It shuts it down, does it not?

**Ms Hill:** I guess my difficulty with this is, it's not referring to something that's specific. Of the treatment programs that we fund currently, all but two would meet the exemption criteria.

**Mr Mammoliti:** What are those two?

**Ms Hill:** Stonehenge and the Vanier Centre. Stonehenge has gone through this review based on its own program assessment of what is working and not working. There are other what I would call medical-mental health conditions where there is clearly a defined process of inpatient, day treatment, outpatient: a continuum model.

For the most severe in that population, there is a defined inpatient treatment stay for the purposes of dealing with the problem, which doesn't mean that when they leave they are cured, but then they move to the next phase of the program, which can be day treatment or outpatient, and ultimately to more and more independence with the necessary supports.

Some of the thinking is coming together across both the mental health and addictions fields about what that appropriate length of stay is and certainly most addiction treatment programs have actually worked within a 28-day model, which has been changed and modified.

**Mr Mammoliti:** You're not getting any objection from me. The 28-day program does work for some people. For most people, I think we can say. But what about the rest, who chose to do their rehabilitating over a two-year program or even a year program or year and a half? What are we saying to the clients who decide to take on rehabilitation within Ontario?

I'll tell you my concern. I've done extensive work in this area and I think you know that. I've actually been very successful in turning the flow of OHIP money that was going to the United States at one point and redirecting it back into Ontario to fund some of our own particular rehabilitation clinics.

I'm afraid that—and I have no qualms about saying this at this point—if we adopt the six months, then we're going to get another flow of people going to the United States again and trying to get help there if we're not going to give it to them over a period of time that would be effective for that particular person.

Talk to the aboriginal community, for instance. They have their own way of dealing with this, and if it takes two years, I don't believe that we should stop it and I think that it might. We need to be wary of that.

I don't know if you want to give me any more comments, but I know there's one agency in my riding called Caritas that deals with heroin addicts and crack cocaine addicts. They have a two-year program and they're concerned, because after a certain amount of time they might be catering to the tenants as opposed to people who need rehabilitation, and that's my concern. I think Comsoc funds that. If I'm not mistaken, they do.

**Ms Hill:** The only comment I'd like to add is that I think our expectation is that clients will have both tenancy agreements and program agreements where they're in a situation where there will be housing as well as service provided. I think with a program agreement, a service agreement, participation will be a key criterion for staying in the residential situation, and that will work effectively for programs under six months.

**Mr Mammoliti:** One other question. Rehabilitating women addicts: Are you familiar with that at all?

**Ms Hill:** Specifically I have not addressed the addic-



tion programs. As I said, of the ones we fund in the Ministry of Health only two currently would fall outside the six-month exemption. It may have more to do with the Ministry of Community and Social Services.

**Mr Mammoliti:** I've been told that because of some of the circumstances with women, and at times actually being diagnosed as having a dual disorder, it's important that they be able to stay in one particular location for at times even two years, away from their family, believe it or not, and that the six months will force them out of the rehabilitation clinic and ultimately jeopardize their rehabilitation.

**Mrs Marland:** Ms Hill, you've made a number of references this afternoon to the Vanier Centre. There's only one Vanier Centre, isn't there? It's the Vanier Centre for Women?

**Ms Hill:** No, I think this is an addiction rehab program.

**Mrs Marland:** Are there two with that name? The reason I'm asking that is that we did have a presentation from the Vanier Centre for Women.

**Ms Hill:** That's a correctional facility.

**Mrs Marland:** No, that's not the one I'm talking about. The correctional facility is in Brampton. There was a group that came before us. It's in the east end of the city. Does anybody remember the name of this group?

**Mr Bernard Grandmaître (Ottawa East):** They're from the Metro area, the Vanier Centre.

**Hon Evelyn Gigantes (Minister of Housing):** No, it's the Massey Centre.

**Mrs Marland:** Oh, it's the Massey Centre. Okay. I'm sorry.

**Hon Ms Gigantes:** You've got your Governors General mixed up.

**Mrs Marland:** That's good, Madam Minister; I have got my Governors General mixed up.

**Mr Grandmaître:** You'll never get the Order of Canada now.

**Mrs Marland:** No, I won't. That just confirms it.

You talk about how things will work with appropriate supports. For the sake of people who read the Hansard, where you talked about rehabilitation supports under the LTA in a delinked way, would you like to explain that?

**Ms Hill:** Sure. Many of our supportive housing programs really focus on ensuring that a client has permanent accommodation and support services, such as case management, or a housing support worker is a term we use, which essentially help the individual with daily living skills, seeking vocational rehabilitation or employment, helping them develop support in the community either through a self-help group or becoming connected to local drop-in centres.

That worker is their primary support worker who supports them in their independent living environment. This can be in an apartment house situation or in a group congregate living situation, but the supports are given to the individual, and if that individual moves on, the supports move with them.

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**Mrs Marland:** So is that your explanation for "delinked"?

**Ms Hill:** "Delinked" means that a person's tenancy, where they live, is not integrated with the support service and that if they choose to leave that housing situation, they don't risk losing their supports.

**Mrs Marland:** You're an assistant deputy minister?

**Ms Hill:** Acting assistant deputy minister.

**Mrs Marland:** Good. At least in the right direction, right? You would agree, then, from what you've just said, with a policy within a government where money flowed to individuals and moved with those individuals rather than money just flowing, blanket, to a particular program? If there is an individual client who is identified with a need, obviously from what you've said you would agree with that money flowing to that individual to meet their individual needs.

**Ms Hill:** The intent of the mental health reform process is to ensure that the supports are linked to the individual. Either their case management needs or their housing support worker needs or their crisis response needs follow the individual as opposed to necessarily staying within the walls of a service agency. That's one of the reasons we support more mobility in service as well, that case managers and housing support workers should go where clients live, their community. In other words, the supports should be mobile as opposed to being provided separately.

**Mrs Marland:** You see, my concern with this bill is that the sections of the bill that deal with the long-term care needs of individuals are not being addressed as in the recommendations Dr Lightman made—primarily, I think, because of the fact that what we're doing here is a little diddling. I mean, it's supposed to look good because we're doing this, but when you legislate only tenancy and you do nothing about the care, in my opinion it ends up being a sham—

**Mr Gary Wilson:** That's not Dr Lightman's opinion, though.

**Mrs Marland:** —because there is no guarantee that those individuals' needs will be met.

It's difficult to ask you questions because you're the executors of government policy. In some ways I'm sure that both of you obviously help develop policy as well, but some of the questions I'd like to ask I don't think are fair to ask a staff person and I respect the fact that that is the position you both have.

**The Vice-Chair (Mr Hans Daigeler):** There may be an opportunity later on since the minister's here.

**Mrs Marland:** It's not the Minister of Health who's here, and that's the difficulty, because we're talking about programs here that end up with the involvement of more than one ministry.

When you sit here and talk about, "This will work when you bring in the appropriate supports," it makes my heart ache, because what I think is happening is that this government isn't going to do any better a job than when our government decided it would deal with long-term

care by closing all the long-term institutions and didn't have the supports in the community.

You said you're not a service provider but you know this will be okay with the appropriate supports. What I'm suggesting to you is that it looks like every single government is going to make the same mistake, that legislation is drafted and designed on the basis of some other things happening, and when those other things don't happen at the community base level, then we do a disservice to the community as a whole. I think that disservice to some of those most vulnerable people in our community will continue.

One of the things that's wrong with this bill is that we're here discussing it with two ADMs from Health and the bill is under the name of a Minister of Housing. This is what is the problem.

Mr Ennis, you talked about this interministerial committee going back, in your experience, for a year. Can anybody with you here today confirm how long before your experience those interministerial committees were meeting? We were told by various people who said they couldn't present the reports because they were government confidential interministerial reports and they weren't for publication. I would like to know how far back we have to go with our freedom of information request to find out how long there has been an interministerial committee discussing, in this case, housing of vulnerable people. Is it true that committee has been meeting for more than your experience of one year?

**Mr Ennis:** Mrs Marland, I responded by saying a year and I've lost track of some of the time. I know that since I became involved with long-term care, which is now close to four years—

*Interjection.*

**Mr Ennis:** There's some help. It was as far back as at least August 1992. I was trying to remember how long back the actual committee that was put in place was to deal with the housing issues on an interministerial basis.

There were other committees before that dealing with issues that were very similar in some ways—in fact it goes back three or four years prior to that—around supportive housing and the very issue that Jessica responded to, the question of delinking. But the committee that was to follow up in terms of the recommendations of Lightman has been working for, I guess, now several years on that, and that's the committee I referred to. It's at least since back of August 1992.

**Mrs Marland:** That's a year and a half.

**The Vice-Chair:** Mr Wilson, and then Mr Johnson.

**Mrs Marland:** I've had five minutes. Is that what we're having?

**The Vice-Chair:** Then we have Mr Owens, and I think Ms Gigantes is down here as well.

**Mrs Marland:** I only had five minutes.

**The Vice-Chair:** You can come back, but I do think we should follow some sort of a rotation. We haven't really established any formal system, but I think it's only fair to give the other members an opportunity to speak.

**Mrs Marland:** I didn't have as long as George.

**The Vice-Chair:** May I also remind the members of the committee that we are also to hear from the Ministry of Community and Social Services.

**Mr Gary Wilson:** Thanks very much for your presentation. I think you have done something to clarify some of the issues that have come before us, as well as to discuss, I think, some of the things that are happening now that this bill isn't a radical departure from. In fact it's building on the various activities the Ministry of Health in the field has developed over the years.

As you suggest in your presentation, there are things that can be done that arise out of these settings, where problems do arise, to work with the clients and build up the experience that way, what can be done so that the services can be generated within the Ministry of Health, the very necessary support services we're all talking about and recognize that have to be there. The question always arises, what do you do with the disruptive people? Where are they going to go where those cases do arise? We have to remember there are actually relatively few cases overall, so I think we are on the right track here.

In fact, you just have to look at Hansard, the second day of the hearings, to find that Ernie Lightman was very supportive of Bill 120, saying especially that nothing could do more than the extension of the Landlord and Tenant Act rights to vulnerable adults, that he was looking into the conditions that they had looked into. So I think that's quite clear.

1450

More specifically, I would like to ask you whether you're aware of the government amendment to look at the issue of rehabilitative and therapeutic services to provide another ground for eviction up to a period of two years, to see whether that would help this idea or the concern of some of the operators that people who had reached the end of the benefit of the services would stay in the accommodation because they found it an attractive place to live rather than to move on after they had taken advantage of the services, that in fact they had either been cured or else it was clear that no amount of services would benefit them. Are you aware of that amendment? Perhaps you might comment on that.

**Mr Ennis:** I am aware of the proposed amendment, the one that indicates that in programs that have a two-year duration there would be a contractual agreement between the provider and the individual concerning the services they were there to receive. I'm aware of that.

Following through on that, I see that amendment as offering another option level in terms of some of the concerns around the length of stay in the program. I think it would not be used in every case. There would be a number of programs where it wouldn't be necessary. In fact, with that agreement, when an individual had completed the rehabilitation time frame, if there were some issues or concerns that he was not prepared to move on, the provisions of the Landlord and Tenant Act could then be brought into play. I think that's another level which would address some of the flexibility in those cases where it's required.

**Mr Gary Wilson:** I'd like to raise another thing that



I think Jessica mentioned in her presentation, the experience that has been built up and what can be done in the various types of accommodation that are being provided. Several of the people involved in supportive housing and working with clients in the mental health field are looking to the Ministry of Housing for various educational programs to help them in these cases that they might not have seen before, or even where they have, there are so few that you don't build up a solid body of experience individually. I just wonder whether there's some way the Ministry of Health is looking at to spread this information around and whether you could comment on that.

**Ms Hill:** As I mentioned earlier, we've been developing some program guidelines, planning guidelines, to support local planning under the district health councils between health and housing providers. This is an important bringing together of two areas that are really very different, the provision of housing and the provision of support services. We've also provided some funding this year to train housing providers to care for, support and assist people with mental illnesses living in existing housing. We will continue to work with housing providers to address those training issues.

**Mr Grandmaître:** I have a couple of very short questions. I want to go back to Dr Lightman's recommendations. Can you tell me why the Ministry of Health didn't approve or didn't go along with Dr Lightman's recommendation for a fast-track removal process?

**Mr Ennis:** The reason I'm hesitating is that I'm trying to remember the thinking around the actual process itself. It isn't coming to me crystal clear in terms of responding to you directly on that question. I do know there were concerns raised about that very process itself, that along with having it as a provision there could also be abuses of the provision itself. But I say in all honesty I can't remember all the specifics around not following that one particular recommendation. Our attempt from a bureaucratic level was to look at how we could then maintain the spirit of the intention and the direction in terms of those recommendations.

**Mr Grandmaître:** But you do agree that there shouldn't be a fast-track removal process?

**Mr Ennis:** You're asking me as an individual?

**Mr Grandmaître:** I'm asking the minister or the ministry.

**Mr Ennis:** We have supported the legislation as it's tabled, and it doesn't include that.

**Mr Grandmaître:** Bill 120 is trying to delink services from accommodations. Going back to the removal of undesirable people, if I can refer to them as undesirable people, causing harm or whatever to other clients, you say that you agree with the six-month process. If the client goes to court, challenges the law, who will be paying for the legal fees, the Ministry of Housing or the Ministry of Health?

**Mr Ennis:** I may need some legal advice on responding to that.

**Ms Czukar:** Was the question, who would provide the funding if the client chooses to challenge the program

and the program has to engage in legal proceedings?

**Mr Grandmaître:** Yes.

**Ms Czukar:** The ministry usually supports programs when it's necessary with respect to their legal fees. It's usually done on a kind of case-by-case basis. Programs aren't given funding on a block funding basis in their budgets, but to the extent that's an issue and the program can make a case that it's part of providing the program and it's necessary, then the ministry would normally provide funding for those aspects of the program.

**Mr Grandmaître:** Is there any allocation at the present time in the Ministry of Health to provide that legal service or services?

**Ms Czukar:** The Ministry of Health, legal branch, would not provide services directly to the programs. The programs are independent. We provide legal advice to the ministry, so we would not provide the legal advice to the programs or represent them or that sort of thing. They'd have to do it themselves. They're legally independent. We would provide advice only to officials in the ministry.

**Mr Grandmaître:** To the ministry?

**Ms Czukar:** The ministry. These people are my clients. I provide advice to them and to the minister and so on, but not to the programs. The programs that are funded by the ministry are independent. It's like a hospital or any kind of independent community agency.

**Ms Hill:** If I could just add something, currently what would happen is if a program required some legal representation, and this could be a variety of different situations, and it did not have the money within its existing budget and could demonstrate that it could not find that money, it would make a special what we call one-time request based on its need and we would consider that request. It's not a fixed allocation, but we often within a year have one-time requests that are not ongoing. They're not part of their base budget but are dealt with in that respect.

**Mr Grandmaître:** How many times in a year, for instance, would you have to deal with such cases at the present time?

**Ms Hill:** I would have to review our one-time requests, but I can't think of any in the last year for this kind of problem that you're referring to.

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**Mr Grandmaître:** Do you think with the implementation of Bill 120 there is a possibility that you might be faced with a number of requests?

**Ms Hill:** I don't have a crystal ball, but I in fact think that for the majority of clients in our programs and for the majority of our providers in the majority of situations the question of whether a client is an appropriate fit in a group home or in a congregate living situation, whether they're meeting their program objectives, will be discussed and resolved without ever entering the legal system.

**Mr Grandmaître:** One last question: Bill 120, as it is, you have no objections, no other recommendations to make, you fully agree with it?

**Ms Hill:** I don't have any recommendations to make at this time, no.

**Mr Grandmaître:** I'm asking you if you agree with Bill 120.

**Ms Hill:** Yes, I agree with Bill 120.

**Mr Grandmaître:** Clause by clause it's perfect.

**Ms Hill:** Nothing's perfect.

**Mr Grandmaître:** Coming from your ministry, it has to be perfect. But you do agree, no questions asked.

**Mr David Johnson:** Maybe we'll come back in a couple of years and see if you still think it's perfect.

**Ms Hill:** I said nothing's perfect.

**Mr David Johnson:** But you certainly would agree that a number of the service providers have extreme concerns about Bill 120, no question about that.

Getting back to the six-month exemption again and the fact that there will be many providers that will not be exempt on that basis, such as the situation I quoted in Scarborough, and there will be problems, questions come up in terms of support from the Ministry of Health. For example, if there is a crisis situation that currently they're able to deal with because they're exempt from the Landlord and Tenant Act—I'm talking about any service provider, not necessarily just the one in Scarborough—if a crisis comes up, can they expect any kind of additional assistance now, because we're breaking new ground, from the Ministry of Health? Can we expect backup in the case of a crisis, for example, from the Ministry of Health?

**Ms Hill:** I guess there are two questions I would have, which is probably not fair since I'm supposed to be answering them, but the first is that seven agencies, I believe, have made deputations to this committee, and as I mentioned we fund approximately 73 that are offering supportive housing. Of the agencies that are concerned specifically about backup, one of the questions I would have is, how do they currently deal with crises? What kinds of linkages do they have to the general hospital emergency unit? What linkages do they have to the provincial psychiatric hospital? What linkages do they have to existing crisis support services?

We recognize that the challenge for the ministry is definitely, and it's outlined in the mental health reform document, to provide more crisis response services, to provide more case management services, to provide more housing support services, and those are all our priorities. So in terms of offering more support, we would examine each individual situation and see what is necessary to ensure that the service is working effectively.

**Mr David Johnson:** Do I interpret that as yes but in terms of specifics you're not being very specific at this point?

**Ms Hill:** I would say yes, we will discuss what supports they need.

**Mr David Johnson:** And yes, you will provide additional crisis support?

**Ms Hill:** Based on what they need, yes.

**Mr David Johnson:** For example, is mention made of psychiatrists? Is that an area?

**Ms Hill:** Some of our programs have psychiatrists on salary. Some of them have them as part of a sessional fee support. Some of them have, as part of their program budget, sessional fees in order to purchase psychiatric support services.

**Mr David Johnson:** Would you expect additional psychiatric support, given that there is concern that because of the non-exemption now of the Landlord and Tenant Act there could indeed be crises and need for additional psychiatric support? Can you tell us today there will be?

**Ms Hill:** The assumption is being made that there are going to be more crises than exist now.

**Mr David Johnson:** It seems a pretty good assumption, but you don't agree?

**Ms Hill:** I'm not sure I agree with the assumption.

**Mr David Johnson:** If the assumption holds true, can they expect a speedy response from the ministry in terms of these extra support services?

**Ms Hill:** I guess this is becoming fairly abstract. What I'd say is that if in the circumstance it is demonstrated that there are more crises taking place, we'd certainly want to know why and what kinds of service supports are needed and what kinds of backup and linkages with the other parts of the system are needed. No part of the system can operate on its own.

**Mr David Johnson:** In your presentation, you mentioned some form of agreement. I didn't have the ability to quote down exactly what you said, but it led me to believe that you were contemplating some sort of tenancy agreement that would require residents in a certain facility to take part in a rehabilitation program.

**Ms Hill:** What I said was that for programs falling under the six-month exemption, they could have a program agreement, which would in a sense be a contract for service, that you are part of a rehabilitation program. It's quite realistic that within establishing treatment goals and program objectives for an individual client, there would be an agreement, and participation would be one of them.

**Mr David Johnson:** I'm still not sure exactly what you mean, but obviously some of the providers are concerned that they will not be exempt, they will not meet the six-month clause, they will still have a program that they want to give but some of the residents will opt out of the program—this might be of particular concern, for example, in an alcohol centre, or any kind of centre—and that the tenants would continue to live there because you can't evict a tenant because they're not involved in some sort of rehabilitation program.

I thought maybe what you were saying was that an agreement could be drawn up to provide that the tenant had to be involved in that program. Did I misconstrue what you were—

**Ms Hill:** I was speaking specifically about the programs that would be under the six-month exemption, the average length of stay of six months.

**Mr David Johnson:** So you weren't contemplating beyond the six months.



**Ms Hill:** I was speaking specifically to those programs whose primary objective is rehabilitation and not housing.

**Mr David Johnson:** You will recognize that many of the programs whose objective is rehabilitation have indicated to us that their programs go well beyond six months, up to 18 months and two years.

**Ms Hill:** Average length of stay, yes.

**Mr David Johnson:** They are concerned that some of the residents, some of the tenants, will opt out of the rehabilitation.

**Ms Hill:** All I can say is that currently we have transitional group homes that have longer lengths of stay than six months that operate under LTA, and they have not found it to be a barrier to delivering their program.

**Mr David Johnson:** Okay. I wanted to talk to someone about the Massey Centre for Women.

**Ms Hill:** That's not me.

**Mr David Johnson:** That's not you. All right. In their deputation, they mention both the Ministry of Community and Social Services and the Ministry of Health, but you would guess that the Ministry of Community and Social Services would be better equipped, would you?

**Ms Hill:** I believe so, yes.

**Mr David Johnson:** Okay, we'll assume that's not passing the buck.

**Ms Hill:** Could be.

**Mr David Johnson:** Let me talk to you a little bit about the Community Occupational Therapists and Associates, COTA. That would be one of yours.

**Ms Hill:** Yes.

**Mr David Johnson:** They say they're involved with 2,000 clients. They house over 700 tenants with mental health problems. I guess you've seen the statistics that they claim that 40% have a history of aggressive behaviour, 42% a history of suicide attempts etc.

They give the example of a 35-year-old male tenant who began to exhibit behaviour which was disturbing to fellow tenants. He began to stalk another tenant who happened to be a member of a visible minority. He was abusive towards the other tenant and he threw him against the wall on at least one occasion. He was verbally abusive and threatening to other tenants and they were very afraid of him.

As a matter of fact, during this period when the staff were trying to deal with him, they said that a couple of the tenants contemplated leaving the co-op because of the intolerable situation. That's a concern I've heard over and over again, that if people are in a situation like that, they may just walk away from it.

They said they called the police. Your earlier advice was to call the police. The police response was that they stated that this was a domestic matter and they could do nothing. They suggested the two tenants work it out between themselves. After three to four weeks of incredible disruption in the household, the tenant became so ill—and this was the tenant who had this action taken against him—that a doctor was finally willing to sign a form and have him committed to the hospital.

It's not too hard to envisage these kinds of things happening. What they're calling for is a fast-track mechanism. I wondered why in a situation like that you would object to a fast-track mechanism. Why wouldn't that make sense to have something where, instead of having to go through three or four months of the Landlord and Tenant Act, an organization like that would be able to have some faster mechanism to deal with those kinds of problems?

**Ms Hill:** I guess what strikes me about the specific scenario you've described or that COTA has reported is that it speaks to some of the issues we are trying to address through mental health reform. In that situation, where someone is becoming more ill, as they said, decompensating perhaps and not able to cope at that point in time, either the provisions under the Mental Health Act or a crisis response team is needed or what we are describing as a crisis stabilization.

In the first instance, what you desire is that the person could be convinced to enter a crisis program for a period of time until they're stabilized and able to return to their housing. On the other hand, if they refuse that, they don't want any of that support at that point in time, there are provisions under the Mental Health Act and that's what the act is designed to do.

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I think it's unfortunate that they have such difficulty finding a psychiatrist who is willing to sign a form. At that point in time our system should be more responsive to the different elements within it. I think that's critical. That's what we're trying to do with mental health reform, have everybody work together. I would suggest that the scenario doesn't necessarily have to play out that way.

I also think that the police response was not necessarily the most effective either, in that in that situation it may have been perfectly appropriate for the police to intervene and to remove the person, especially if they had assaulted another tenant. So it looks like a breakdown in many parts of the system.

**Mr David Johnson:** COTA's view, just to deal with the police—they state in their brief that the police have been suggested, perhaps by your ministry; they don't say that, though.

They go on to say: "In our experience, this is rarely a satisfactory solution" to the problem. "Criminalizing those with long-term mental health problems is neither a humane nor helpful approach" to the issue. "Jail is clearly not the answer, nor a housing option of choice. The reality is also that the police are ...frequently...unable, reluctant or unwilling to act" in many of the situations they are called upon to deal with in housing settings nor do they have the training in mental health to do so.

I'm afraid that's the reality of the situation. We may wish it wasn't so, we may wish that the police had broader abilities and capabilities, but this is the reality that's on the ground today.

**Ms Hill:** There are training programs that we have supported. In Peel there was a training program for police specifically to respond to the severely mentally ill. I think what I said in my remarks early on is that this is an

impetus to the further delinking. It's also an impetus for us to provide more effective training to police in order to intervene. It's also an impetus for us to continue to develop our crisis response system, because I certainly would choose a crisis response team as the first point of contact. That's exactly what we intend to build. There are some crisis response services but clearly not nearly enough and that would be the preference in that situation.

**Mr David Johnson:** Don't you have any doubts that the mechanisms that you're describing, while theoretically excellent, practically speaking, are just not there today, both in terms of the Mental Health Act and in terms of the police? While we search for that Utopia, the providers today have to deal with the real world and aren't we sort of—when I say “we,” I don't count myself in that, but doesn't this bill leave them out to dry in a sense while we search for that Utopia?

**Ms Hill:** I don't think we're searching for a Utopia. We've seen these systems work in other jurisdictions very well. It's true that we may not have it fully developed at this point but, as I said earlier, many of our programs exist under the Landlord and Tenant Act and are able to deliver their programs and the handful of incidents that we suspect could be—it's sort of an assumption that's being made that in fact the Landlord and Tenant Act is going to contribute to more of these situations.

**Mr David Johnson:** When you say there are other jurisdictions, could you be more specific?

**Ms Hill:** There are other provinces that have crisis response teams that are very effective in both responding to first-time crises and to supporting other parts of the system. We currently are developing program and policy guidelines which we're sending out for consultation on the crisis response system and we'll be working with hospitals and other service providers and planning through the DHCs to put these in place.

**Mr David Johnson:** Do other provinces have an equivalent to Bill 120 whereby care homes come under an LTA?

**Ms Hill:** I'm not sure. I think the Ministry of Housing would be better able to answer.

**Mr David Johnson:** Could I deflect that to the Minister of Housing? Deflect? It's like a ping-pong game here.

**Hon Ms Gigantes:** I will ask for information on that.

**Mr David Johnson:** At any rate you're not aware of other—when you mentioned other jurisdictions in other provinces, you led me to believe that you were aware that there was something equivalent to this.

**Ms Hill:** I was speaking about the crisis response system.

**Mr David Johnson:** But you weren't speaking to the problems that could be generated having the Landlord and Tenant Act pertain to care homes that would come under your jurisdiction, for example.

**Ms Hill:** What I was speaking to is the reality that in any part of the mental health field there will be individual clients or patients who will require crisis support services and that we see the crisis response system as not only critical to providing services to people who enter a first-

time crisis—they're living in their home and they go into crisis or they go into crisis in any part of the society or community—but also as a critical component to support people living independently in housing and to case management services as well.

**Mr David Johnson:** Maybe the minister will get back to us on the other question about the other provinces.

You mentioned delinking again and this has been discussed quite a bit here today. I'm not sure if the question has been asked earlier, but if this ultimately does lead to delinking, could you tell us what the Ministry of Health's outlook or view or actions will be in terms of, for example, will the Ministry of Health be prepared to pick up the treatment? There are service providers today who are providing this along with housing, but if delinking takes place, would the Ministry of Health be more involved in picking up the service component at some time in the future?

**Ms Hill:** We currently are providing the funding for the service component and the 24-hour group homes as a service model. We don't see that there will be increased costs associated with bringing in these provisions. As I said, many of our supportive housing programs operate under LTA provisions currently.

**Mr David Johnson:** What I'm told—and I'm not the expert in this field; perhaps Margaret will help me out—that there are very few treatment placements at this time and that the waiting periods for crises at the present time is quite a long waiting period for—

**Ms Hill:** The group homes do not offer treatment. The treatment facilities that we have in the mental health system to a large extent include the provincial psychiatric hospitals, the general hospital psychiatric units, inpatient-outpatient day treatment. I'm not sure whether you're referring to the group homes or whether you're referring to another component of the system.

**Mr David Johnson:** I'm referring to any component of the system that will now come under the Landlord and Tenant Act that wasn't there before, okay? You can envisage any component of that and if, as a result, we lead to delinking where the housing becomes separate from the care, is your ministry going to take a more active role in providing the kind of care that may be lost as a result of the fact that the providers now give both?

**Ms Hill:** And we fund both.

**Mr David Johnson:** And you fund both, yes.

**Ms Hill:** So we would be assisting with the delinking and we currently fund both parts of the system. There's an assumption being made that there's going to be an increased cost, I think.

**Mr David Johnson:** Or a loss of service, I guess.

**Mrs Marland:** If the providers start getting out of it, there will be.

**Mr David Johnson:** I'll let somebody else pick that up, I think. Margaret, you pick it up.

**Mr Cordiano:** A short supplementary. Only because it was the—Margaret, just one minute, because this is very critical for me. I just find this is so fundamental to the bill. I can't accept the reasoning behind the view



that's unfolded here and I'm almost tempted to ask the minister if she sees—

**The Chair:** You'll have that opportunity later.

**Mr Cordiano:** I will, yes, but the whole point is that these rehab centres have always seen themselves as providers of services for rehabilitative purposes—

**The Chair:** Point of order, Mr Owens.

**Mr Stephen Owens (Scarborough Centre):** On the point of order, the member asked for a quick supplementary and that supplementary has now stretched.

The second point of order is on process, Chair. This ministry has been on the hot seat for over two hours now. We still have another ministry. We have a clause-by-clause process to get through by the end of the week—

**Mrs Marland:** Is that a point of order?

**Mr David Johnson:** That's not a point of order.

**Mr Owens:** Absolutely. Can we have your view, Chair, on the point of order and in terms of the process that we're engaged in here this afternoon?

**The Chair:** Mr Cordiano asked for a supplementary and he is asking his supplementary question.

**Mr Owens:** Mine was a supplementary point of order.

**The Chair:** On the second point of order where you ask about scheduling, you will know there are no time limits in the motion that was put to the committee and passed by the committee.

**Mr Cordiano:** Very quickly, was there an open process of consultation with these rehabilitation centres to flat-out tell them that their services and the way they now provide them are going to no longer be necessary over a period of time and that you're going to basically put them out of business in the way they operate today?

**Ms Hill:** No, there hasn't been, since that's not what I would say to them.

**Mr Cordiano:** That's what they're saying to us.

1520

**Mrs Marland:** Is the minister going to ask the Ministry of Health questions?

**The Chair:** Yes. That's the process we're in.

**Hon Ms Gigantes:** I'm going to try to help the committee, Margaret.

You will be aware that a number of witnesses and some members of the committee have raised the question on behalf of operators of treatment programs in particular whether they would cease to become operators of treatment programs and become landlords. When you've looked at that issue and you consider the proposed amendment to subsection 2(1) of the bill that would provide an extra ground for eviction within a two-year framework, do you consider that meets that concern?

**Ms Hill:** In the Ministry of Health-funded programs there are only a few treatment programs that would have the concern that their program was for 18 months to two years and therefore they would be concerned about people staying beyond that, and that criteria for eviction would help those programs, but they are actually very few of the programs that we've been discussing. The group home programs, I think it would be fair to say,

would not call themselves treatment programs.

**Hon Ms Gigantes:** Right. Dealing with the question of group homes or supportive housing programs, has it been your experience in the Ministry of Health that there have been problems in some settings because the operators wish to run them much like institutions, and is it your view that if we are to proceed with a delinking direction for the provision of housing and the provision of support services we have to move away from that institutional reflection within group homes and supportive housing settings?

**Ms Hill:** That has been the direction we've been pursuing for a number of years in terms of supportive housing, that we see stability of accommodation, having a permanent accommodation, as a critical factor to contributing to someone's stability with their mental illness. Certainly the delinking has essentially been directed towards achieving that goal, that you should be able to provide permanent accommodation and the support services and that the choice about whether to live in a home or live in an apartment should be largely the choice of the tenant as long as they meet the requirements.

**Hon Ms Gigantes:** Has there been experience at the Ministry of Health that would lead you to think that in fact people's health may be affected by situations in which the vulnerability of a person to eviction is creating distress, and have there been incidents which have caused the Ministry of Health to question whether such a setting is in fact healthy for the people involved?

**Mr Ennis:** I'd say in the past couple of years, there have been probably several situations where the administration of the program itself has been questioned by us in terms of the care that's being provided to the individuals who live under that program's administration both of the home and the service itself. There are some places where it's actually connected. It's not delinked, and that's where we have had some issues in terms of some of the individual clients and we've had to take some intervention to help them out of that situation.

**Hon Ms Gigantes:** So from the point of view of the Ministry of Health, to provide effective programming you think it is a useful base to have a separation of accommodation and some permanency of accommodation for long-term tenancy and the support services?

**Mr Ennis:** Yes, that's correct. In fact, as you look back on the experience in the area of programs for seniors and persons with disabilities, the delinking has been going on for probably two to three years at least, if not longer, and most of those programs are now in that situation where the services are delinked from the accommodation itself. There are some that are still together, but over time that will change.

**Hon Ms Gigantes:** In other words, there's positive evidence for the need for change in the field of people who are generally vulnerable for one reason or another and also a positive indication from the setting involving people with chronic health problems that delinking is an appropriate policy direction.

**Mr Ennis:** Yes, it is the appropriate direction. It also

allows services to be directed at the individual rather than focused around a program itself.

**Hon Ms Gigantes:** Have you ever had reason to think that it improves somebody's ability to cope with a drug problem or a mental health problem, from the experience of the Ministry of Health, to be threatened with eviction?

**Ms Hill:** No.

**Mr Ennis:** It sounded like we were both going to answer at the same time.

**Mr Owens:** Again, the process issue that I wanted to address is the issue of when we're going to see Comsoc, if you have a view on the time line. I understand that a set time period was not included in the motion—that part is clear—but again, in terms of the amount of territory that we would like to cover this week, I think it's important after two and a half hours now that we have some indication of when Comsoc might be asked to take its place at the table.

**The Chair:** Mr Owens, you know the Chair can only allocate time according to the wishes of the committee. If the committee wishes to move to the next presenter, then the Chair is more than happy to accommodate. I share your concern that we may not be providing enough time for the Ministry of Community and Social Services; however, that is not my decision.

**Mr Owens:** Well, I think it's more to the issue of the tenants that we're trying to address rather than the ministry people. My understanding of the conversation we had was that we would like to have the Ministry of Health and the Ministry of Community and Social Services come in and talk about their level of consultation with the Ministry of Housing around this particular piece of legislation. Now, I would say that in two and a half hours we probably explored that pretty thoroughly with the Ministry of Health, and in terms of moving on to exploring that same question with Comsoc and again ultimately dealing with some tenant issues here, I think I'd like to have an understanding perhaps from the committee of what it is they're thinking of doing. Do we continue this for another two hours or are we going to move into Comsoc?

**Mrs Marland:** I think Mr Owens may be interested in tenant issues in this particular section of the bill; I'm interested in the care of people with special needs, the most vulnerable people in our society. There are questions that have to be answered. It's very obvious that there are reservations by the Ministry of Health on some aspects of the impact of this bill on its clients. If you're satisfied that your questions are answered, then that's fine; you don't have to ask any.

**Mr Owens:** So that means, Mr Chair, we're going to continue for another—

**The Chair:** We are going to continue because I have no authority to do otherwise.

**Hon Ms Gigantes:** We could make a motion, couldn't we?

**Mrs Marland:** Sure, you can kill anything; you've got enough votes. Make a motion and kill it. Why don't you do what you usually do?

**The Chair:** Order. Mr Owens has the floor.

**Mr Owens:** Maybe that's the language you use in Mississauga, but we don't use it on this side of the table.

**Mr David Johnson:** Why don't we just carry on?

**Mrs Marland:** I could dig you out some Hansards and show the kind of language you use.

**Mr Owens:** In terms of the particular piece of legislation, I have a question for Ms Czukar. I don't know if in your role with the Ministry of Health the Advocacy Act would be something that you could comment on, but my question was with respect to the application of the Advocacy Act and how you saw it being applied to the tenant group that would be represented by your Ministry of Health programs and how that in fact would kick in in terms of a tenant being able to access the services of an advocate in an L and T proceeding other than, say, a local legal clinic. Is it a relevant issue?

**Ms Czukar:** I'm not sure how they would participate in a Landlord and Tenant Act proceeding. I would think that would be something that would be met by a local legal clinic. But I can say that I'm familiar with the Advocacy Act, and it applies to vulnerable persons. The people that we're discussing here with respect to the programs funded by the Ministry of Health, both in community mental health and in long-term care, would fall within that Advocacy Act definition of vulnerable persons and those people would have access to advocates when the Advocacy Act is proclaimed and the advocates they have access to would have the powers under the Advocacy Act and that sort of thing. So if there were an issue that advocates were assisting with with respect to someone's housing, then the advocate would have the powers under the act to assist them in that way. I'm not sure if that answers your question entirely.

1530

**Mr Owens:** In terms of some of the deputants we've seen, particularly a deputant who came before the committee in Windsor who was non-verbal, my question was directed at how you would go about ensuring that that person was able to get hold of her rights she is now being granted under the Landlord and Tenant Act and how would you in fact do that with respect to an advocate. Maybe I'm complicating a very simple situation.

**Ms Czukar:** I'm not sure if you're saying it's a simple situation or a complicated situation, but in any event of course courts have certain kinds of interpretation facilities and that sort of thing available and there are special resources in the community to assist people who can't speak or that sort of thing to exercise their rights in courts. But as to whether advocates could assist them or not, that's certainly within the purview of the Advocacy Act. I guess the question then is to what extent there will be enough advocates to go around, but that's not a question of the act itself.

**The Chair:** The minister would like a supplementary.

**Mrs Marland:** I haven't had a turn. The minister's on her second.

**Hon Ms Gigantes:** Very quickly. Ms Czukar, you attended at the inquest of Joseph Kendall for the Ministry of Health?

**Ms Czukar:** I did.



**Hon Ms Gigantes:** If you look at the proposed changes in our social operations, if you want to say, or the measures that are coming forward under the consent to treatment, substitute decision-making, the Advocacy Act and changes contained within this bill as they affect unregulated care homes, do you see them adding up to an improvement in the situation Joseph Kendall lived in?

**Ms Czukar:** Joseph Kendall lived in an unregulated private boarding home and had no access to an advocate because there was no advocate. There was no one who could act on his behalf or attempt to tell him that he had rights. In fact he had some rights, limited though they were, but no one had access to the facility. The Advocacy Act will ensure that people will have access to a facility like that and possibly prevent a death like that and the injuries to the other tenants of that boarding home who were assaulted by the owners and that sort of thing. Yes, it's an improvement.

**Mrs Marland:** Am I correct then that your final answer was laying the credit with the Advocacy Act?

**Ms Czukar:** It's a combination. The fact is that advocates can't exercise rights that people don't have. If people in a housing situation in an unregulated facility have no rights to exercise, then an advocate can't assist them. But in this case it would be a combination of their rights under the Landlord and Tenant Act and the Advocacy Act that would result in an improvement in the situation of someone like Joseph Kendall.

**Mrs Marland:** Would you agree that under this act, Bill 120, it would result in the improvement of his tenancy but not necessarily his care?

**Ms Czukar:** It would result in his being able to have had someone go into the home, get past the landlord at the door and assist him to exercise his rights to housing and, beyond that, to his rights to care or access to the care system.

**Mrs Marland:** Where does this bill improve his care?

**Ms Czukar:** It's not a bill with respect to his care. It improves his rights to housing so that the landlord couldn't block access to people coming into the home to find out what was actually going on in the home.

**Mrs Marland:** Right, but it doesn't do anything about his care, does it?

**Ms Czukar:** It does something about his care if people are able to get access to him and determine what sort of care he could take advantage of.

**Mrs Marland:** If people can get access, what tool are those people going to be able to use to improve his care?

**Ms Czukar:** They would use advocacy tools. That's their mandate under the Advocacy Act and they would use advocacy tools.

**Mrs Marland:** But where is there a statute that defines his rights for the care that he, or whoever his funder is, is paying for?

**Ms Czukar:** The Criminal Code states that he has the right not to be assaulted.

**Mrs Marland:** Oh, absolutely, but I'm not talking—

**Ms Czukar:** It wasn't a lack of care that killed him.

**Mrs Marland:** No, I understand that. That's a rather

interesting response. I don't think there's anybody in this room who doesn't know what was the cause of death, and we're talking about an absolutely, totally abhorrent situation not only for him but for other residents of that home.

The minister asked, I thought, a very interesting question because her bill doesn't do anything about the care of that individual in terms of the standard of care and the other treatments that that individual, or those individuals, in any of these facilities might need.

I want to get back to Ms Hill and Mr Ennis. How many assistant deputy ministers does the Ministry of Health have currently, or acting? Are we talking about four or five?

**Mr Drummond White (Durham Centre):** Mr Chairman, is this related to this bill?

**The Chair:** It is kind of wandering.

**Mr Owens:** What else is new?

**Mrs Marland:** Do you know? Are there about four?

**Mr Ennis:** Yes.

**Mrs Marland:** Okay. I would like to know, then, if there are only four or five of you and you're here speaking on this bill, how it is that you can't tell us what is going on in other provinces. You used the example, in answer to Mr Johnson's question, that X, Y, Z works in other jurisdictions, and you were talking about particular types of training for particular types of professionals. It evolved out of the discussion about what kind of training police have. What I would like to know is, if you're going to use the example of other provinces—you said other jurisdictions, so I presume you meant provinces. Is that correct?

**Ms Hill:** I was speaking about the crisis response system which does exist in other provinces as well as other jurisdictions, meaning the United States.

**Mrs Marland:** Are you familiar with what the crisis response system is in other provinces that have a landlord and tenant act with rent controls?

**Ms Hill:** No.

**Hon Ms Gigantes:** Does it have to be with rent controls?

**Mrs Marland:** Well, either with or without. Do you know? You made that statement. I'm just trying to give you an opportunity to clarify why the tie-in with other jurisdictions.

**Ms Hill:** The tie-in was that we recognize the need for crisis response services as a mechanism to support case management and people living in independent housing. That's what the tie-in was to other jurisdictions.

**Mrs Marland:** Okay. We recognize that too. How do you feel Bill 120 is going to help?

**Ms Hill:** What I said at the beginning of my remarks is that we believe people living with a severe mental illness have the same rights to security of tenure as anyone else in the community, and therefore this bill offers them that protection.

**Mrs Marland:** All right. I just want to read you a paragraph from the Ecuhome presentation, because I

think this is where your responsibility, both your and Mr Ennis's responsibility as ADMs with Health, should be concerned. In their case they're saying, and I'm quoting from page 17 for the sake of Hansard:

"We are not in the business of only providing housing nor are we in the business of only being landlords. As our resources to perform the work we do is limited and the need for our work far exceeds our ability to provide help, it would be completely inappropriate for an individual to occupy the units we offer if he or she has no desire to comply with the program we administer."

Does this program receive some funding from you?

**Ms Hill:** No.

**Mrs Marland:** It's Comsoc?

**Ms Hill:** Yes.

**The Chair:** You could maybe ask the question shortly, Mrs Marland.

1540

**Mrs Marland:** I will. In this particular program, there would be people who require treatment because of various addictions. Are you not concerned about the fact that this program may be terminated because they can't operate the program with this legislation in place? Coming back to how something is going to work because there are going to be support systems in the community, do you feel today that everybody in crisis has access to community programs? In this case we're talking about residential ones, obviously, because we're talking about a residential tenancy act.

**Ms Hill:** Currently, as I said earlier, we have programs operating under LTA, and the crisis services they would use would not change. I'm not quite sure why we're assuming that there's going to be a huge increase in crises for these programs. My problem is with the assumption that there's going to be a huge increase in crises. Currently we have group homes operating under LTA that offer their programs, and if a person is not functioning, they call upon the system for supports.

**Mrs Marland:** Do you think today that the government has enough resources to deal with people in crisis?

**Ms Hill:** I would say that what we're trying to do is reconfigure our resources so that there are more effective responses, which is the whole intent of the mental health reform initiative. Right now there are too many crises that have to be dealt with by having to arrive at the emergency department of a hospital quite well into a crisis. What we see as being much more effective and what we have as evidence from the literature is that if a crisis response is delivered in the early stages of someone having trouble, you're more able to contain the crisis, to improve the situation and to prevent hospital readmission.

**Mrs Marland:** I understand that, but my question is very specific: Do you feel that today the waiting lists for treatment for people in crisis is a concern? Are you happy with that situation today without adding to any further load on that system? A lot of your answers have been based on the fact that these resources, these programs—your word—these supports, are there in the community, and I'm asking you, if that's the case, then are you saying there's no problem with resources today

to deal with people with mental illness in terms of access to treatment?

**Ms Hill:** Currently, if a person is in true crisis they appear at emergency units and are responded to. There's not a waiting list if they appeared in an emergency unit. Do I think that's the best response? No, I don't think that's the best response. Do I think we have enough resources in the right place? No, I don't think we have enough resources in the right place and that's why we have a mental health reform initiative.

If all the resources were in the right place, we wouldn't have to make the changes we need to make in the system.

**Mrs Marland:** Are you concerned about an organization like Ecuhome that is telling you their program will be killed if this legislation goes through as it's presently drafted?

**Ms Hill:** I can't speak to Ecuhome's program or whether it will be affected in that way.

**Mrs Marland:** Are you familiar with their program?

**Ms Hill:** No, I'm not.

**Mrs Marland:** And what's your position?

**Ms Hill:** It's under another ministry.

**The Chair:** Mrs Marland, you may ask Community and Social Services—

**Mrs Marland:** No, excuse me. I thought your responsibility was to do with mental health in the province.

**Ms Hill:** It has to do with mental health programs and services in the programs we fund, yes. Unfortunately, I'm not familiar with all the programs MCSS funds at this time.

**Mrs Marland:** But if these clients required—

**The Chair:** You can ask those questions to Comsoc.

**Mrs Marland:** No, I'm asking them to the Ministry of Health under the Mental Health Act.

**The Chair:** But we know that program is funded not by the Ministry of Health.

**Mrs Marland:** But people who require mental health treatment come under your ministry?

**Ms Hill:** That's right.

**Mrs Marland:** So my question still stands, Mr Chair. Are you concerned about people who are affected by this legislation, who may need more access to treatment?

**Ms Hill:** I don't think this bill speaks to treatment.

**Mrs Marland:** No, it doesn't.

**Ms Hill:** It speaks to the provision of protection of tenancy, which is consistent with our policy directions.

**Mrs Marland:** I have one last question for now. These people who will now be under the Landlord and Tenant Act, can they refuse to allow a crisis response team in? You said one of the advantages is that all these people can now get in. I'm asking you.

**Ms Hill:** If a person chose to lock themselves in the room and not allow the support of a case manager or a crisis response team or anyone near them, then it would be for the landlord to decide whether in fact this person required police attention or attention under the Mental



Health Act. If a person was decompensating and was in real crisis but chose to reject all the supports that the health care system could offer them, then the next step would be to follow the directions under the Mental Health Act or the Landlord and Tenant Act.

**Mr Mammoliti:** When a stakeholder who's trying to address a concern of a client in a rehabilitation centre; again, more specifically, somebody who's addicted to a substance or another feels that the threat of eviction might be good rehabilitation for that client, would you agree that it's good rehabilitation for that client?

**Ms Hill:** I don't think I'm in a position to comment on whether that's good therapy.

**Mr Mammoliti:** You fund some of these agencies, do you not?

**Ms Hill:** That do what?

**Mr Mammoliti:** Rehabilitation for drug addicts.

**Ms Hill:** We fund programs that offer rehabilitation services, but I'm not sure whether any of them would purport to say that threatening eviction is good therapy.

**Mr Mammoliti:** Let's take Stonehenge. They pride themselves on that. Were you aware of that?

**Ms Hill:** No, I wasn't.

**Mr Mammoliti:** Caritas, the heroin rehabilitation centre, pride themselves on that and they have a pretty good track record. Were you aware of that?

**Ms Hill:** I wasn't aware that it was used as a method of enforcing treatment.

1550

**Mr Mammoliti:** Yet earlier you had stated your comments in reference to that type of rehabilitation to the minister when she asked you that question.

**Ms Hill:** I was referring to severely mentally ill people, and I wasn't talking about treatment programs; I was talking about housing programs. What I said was that I couldn't see suggesting to someone that eviction as a method of keeping someone in line for rehabilitation purposes was good for their mental health.

**Mr Mammoliti:** I don't have Hansard in front of me, but I had understood from the question that it was actually pretty specific in terms of drug rehabilitation.

**Hon Ms Gigantes:** Ms Hill may not have heard that.

**Mrs Marland:** You asked it twice.

**Mr Mammoliti:** Would you mind giving me your interpretation of section 1 of the bill at this point?

**Mr Grandmaître:** Do you want to deal with your amendment, George, or what?

**The Chair:** Order.

**Mr Mammoliti:** What does section 1 mean to you?

**Ms Hill:** It's the definition of "care services."

**Mr Mammoliti:** That would be subsection 1(1)?

**Ms Hill:** Right.

**Mr Mammoliti:** Let's go down then to subsection (2).

**Ms Hill:** It's the definition of "residential premises."

**Mr Mammoliti:** In layman's terms, what does this mean to you?

**Ms Hill:** What it means to me is that it's any premises where a person will receive care services whether or not receiving the services is the primary purpose.

**Mr Mammoliti:** That would include all the different types of care services we've been talking about?

**Ms Hill:** We'd go back to the health care services, the rehabilitative and therapeutic services or services that provide assistance with the activities of daily living.

**Mr Mammoliti:** Subsection (3), what does that mean to you?

**Ms Hill:** That essentially these are the premises that are excluded from "residential premises," the section above.

**Mr Mammoliti:** That means the list that's provided here would be excluded from "residential premises"?

**Ms Hill:** Yes, as described in the clause above.

**Mr Mammoliti:** That would include of course for correctional purposes.

**Ms Hill:** Yes.

**Mr Mammoliti:** Clause (i.1), what does this mean to you? Try to put it in the context of my concern with the six-month provision, if you might.

**Ms Hill:** I rely on our legal counsel for interpretation about the statute. I'm not sure what the question is.

**Mr Mammoliti:** To be again more specific and to address another question that the minister asked you, would it be your opinion that somebody could stay in a particular rehabilitation centre for more than six months without being under the scope of the Landlord and Tenant Act, or would the Landlord and Tenant Act come into play after this bill is passed? This is important.

**Ms Czukar:** Can I answer that? I think it is important to understand, because I think there are some misconceptions that have been promoted by some of the groups that have appeared before the committee that this is going to change the programs. What this definitions section does is say that where accommodation meets the definition here, including these conditions in clause (i.1), the accommodation is exempt from the whole residential premises provisions of the Landlord and Tenant Act. What clause (i.1) says is that the accommodation is occupied by the person for the purpose of receiving rehabilitative or therapeutic services that are agreed upon by the person and the provider. So it's not something that can be imposed on them; they've agreed to receive those services. The parties have agreed that it will be for a specific duration—and it doesn't name the duration; it can be six months, it can be a year, it can be two years—or that it will end when the person has reached their goals in the program or there is some kind of agreement that the person is never going to reach their goals.

**Mr Mammoliti:** Here's my concern: A heroin addict who doesn't know where he's been for the last year and hasn't known who his family is for the last year decides by himself or herself to get treatment in one of these facilities. They of course go into a particular program—it might be detox program, it might be something else—which would then determine and evaluate the type of care that they need. Where does this agreement come into play

in this legislation with somebody who doesn't know what they're doing?

**Ms Czukar:** With respect to competency to make an agreement, programs of this nature are aimed at helping people become competent and become able to understand those things. So the agreement is going to be reached when the person is able to do this.

**Mr Mammoliti:** When there's a dispute later on, when that person is off of the heroin and is off of a substance of some sort and is back to thinking normally and decides that he likes his accommodation and wants to stay past the six months, who's going to resolve that?

**Ms Czukar:** First of all, I didn't get a chance to finish. The fact that it says in (iii) "the average length of the occupancy of the occupants...does not exceed six months" doesn't mean that people can't stay longer than six months, because we're talking about an average length of stay. We don't know exactly how that's going to be calculated by the courts, but it means that people can stay longer than six months.

If a program decides that it's going to enforce this in some way, that it really can't tolerate this, then it could attempt to control its being subject to the legislation by having some kind of policy of forcing people out after five and a half months, I suppose, to ensure that it's always within this.

But I'll address your question, which is if you've got a person who goes into the program, it takes that person a while to get with it and at that point the program approaches them and says: "Okay, what you're in here is a rehab and therapeutic program. It's a five-month program, and we want you to sign an agreement to that effect." I just want to clarify this. Is your concern that if the person doesn't sign the agreement, they have acquired rights under the Landlord and Tenant Act and that the program never had a chance to discuss that with them? That's what I hear you saying.

**Mr Mammoliti:** What I'm saying is that it could be interpreted that way, and that's a concern. It could be interpreted that way, and then when the dispute is there, who's going to resolve it?

**Ms Czukar:** The court is going to resolve it, because if the person doesn't leave and the program wants them to leave, its recourse is to go to the court and apply for a writ of eviction.

**Mr Mammoliti:** All right, and the courts take it on, and the ministry funding of the stay for that individual is going to go towards the courts as opposed to rehabilitation. That's a concern of mine. I think I've made my point clear in terms of the six months, for me, not being adequate and that I think it needs to be addressed.

**The Chair:** I have Mr Cordiano, Mr Owens and another ministry waiting.

**Mr Cordiano:** I want to move to a concern regarding rest homes and their ability to continue to provide convalescent care emanating out of hospitals, contracts that are now made with hospitals for someone who's been, for example, treated for cancer in a hospital. Many homes now provide convalescent care on a short-term basis. There is a concern here that the provisions of the act

would negate that possibility from occurring in a rest home because the nature of the rest home is that the tenants are there for a long-term duration and obviously exceed the six-month period. By and large, the majority of tenants are going to be there for years. So what do you foresee happening to this type of care? Are you concerned about it?

**Mr Ennis:** First of all, in terms of getting further definition or response around that question, I think that it would be appropriate to ask the Ministry of Housing, but I would respond initially by indicating that where a hospital—I don't have the legislation right in front of me, but I know there are a number of provisions in the legislation where, for example, hospital programs are not included. So if it's considered a hospital program or something under long-term care facility, the Landlord and Tenant Act wouldn't apply.

**Mr Cordiano:** I've gone through the legislation and I don't believe there's enough clarity in the exemptions that do exist. In fact, I'm quite sure there isn't.

1600

**Mr Ennis:** But there are references in the proposed legislation around the Public Hospitals Act and the private hospitals and community psychiatric hospitals.

**Hon Ms Gigantes:** The Homes for the Aged and Rest Homes Act.

**Mr Ennis:** The Homes for the Aged and Rest Homes Act itself.

**Mr Cordiano:** Where's the clarity? Where's the clarity that ensures that this will continue to be the case?

**Mr Ennis:** I think the other way of responding would be that there's nothing in the legislation that prevents hospitals or care homes from providing short-term respite care, especially if those residences are already set aside for that very specific purpose. Then they would need to either make application or already be exempted from the Landlord and Tenant Act. But those are provisions that if they're already in existence for providing short-term care, I don't see how they would come under the Landlord and Tenant Act.

**Mr Cordiano:** I guess it's a legal question, really, that we're talking about, but I want from your point of view if there's enough clarity in the section that deals with this to ensure that this will continue to be the case after Bill 120 passes, and obviously you think there is.

**Ms Czukar:** I was just saying I'm not clear on what the situation is you're describing because you started out talking about a rest home and you spoke about contracts with hospitals and I'm not sure what it is. Rest homes are not regulated by Ministry of Health legislation. That's the very point that this legislation was meant to address.

**Mr Cordiano:** No, but hospitals contract with rest homes, so that's how you're involved in this equation.

**Ms Czukar:** In what way?

**Mr Cordiano:** Hospitals have a definite need for placing recovering cancer patients in rest homes and they have done this till now; would you not agree? Am I saying something that is totally foreign to the Ministry of Health? What are we talking about here?



**Ms Czukar:** Do you know anything about that?

**Mr Ennis:** No, nothing.

**Ms Czukar:** I don't know about that sort of situation.

**Mr Cordiano:** You're suggesting that doesn't occur now?

**Ms Czukar:** Acute care patients discharged from hospitals?

**Mrs Marland:** He didn't say acute care.

**Mr Cordiano:** No, convalescents, people recovering after they've had acute care. I can't believe you're not aware of this.

**Ms Czukar:** There's no contract. What happens is that hospitals discharge people who require some follow-up care and that might be in various kinds of facilities, and the kinds of facilities that are regulated by Ministry of Health legislation are covered here in terms of nursing homes, homes for the aged and charitable institutions, charitable homes.

**Mr Cordiano:** No. The actual contracts that are in place I'm not that familiar with, but what we've heard on this committee from several deputants was that rest homes provide this service and they deal with hospitals around that question. Whether the actual individual signs a contract with the rest home, which I'm sure they probably do, but they have agreements with hospitals—

**Mrs Marland:** One of the discharge facilities.

**Mr Cordiano:** That's right, as one of the discharge facilities. You are suggesting that's not the case.

**Ms Czukar:** What's the question about that contract?

**Mr Cordiano:** How does Bill 120 affect the ability of those homes to continue to provide that service?

**Ms Czukar:** If it's a private rest home and the person goes to that private rest home and there's a contract between the person and the rest home with respect to the care they're going to receive or whatever, that's independent of their living situation, and the way Bill 120 would affect that is that if the person ends up being there for longer than six months, that becomes their home and Bill 120 would apply. They would acquire rights under the Landlord and Tenant Act if the average length of stay in that home was longer than six months.

**Mr Cordiano:** The average includes all the residents of that home.

**Ms Czukar:** That's right.

**Mr Cordiano:** That's the point I'm trying to make. Therefore, if four beds out of 200 are set aside for that type of purpose, that home is deemed to not qualify for the exemption, and therefore it's a long-term facility as far as this act is concerned and Bill 120 applies to it.

**Ms Czukar:** That's right.

**Mr Cordiano:** So how does it get an exemption for those kinds of provisions, for that kind of care to continue to be provided?

**Ms Czukar:** It's not contemplated by the act.

**Mr Cordiano:** Right. It ignores it.

**Hon Ms Gigantes:** Why would it be desirable?

**Ms Czukar:** But it's not a health care facility.

**Mrs Marland:** So there'd be places for people to turn to.

**Mr Cordiano:** Why would Bill 120 be desirable the way it's written? It's not to me, but that's another question for another day. That's a political decision.

**The Vice-Chair:** Since we do have many more questions, perhaps we can move on to Mr Owens and I do think we still want to hear from the Minister of Community and Social Services as well.

**Mr Owens:** I'd like to move a motion.

**Mr Cordiano:** On a point of order, Mr Chair: We do not have consensus around that matter. Of course if the member wishes to put a motion in place to cut off debate, as far as I'm concerned, there are still questions that need to be answered.

**The Vice-Chair:** Consensus on what?

**Mr Cordiano:** About moving forward to the Minister of Community and Social Services.

**The Vice-Chair:** We haven't moved there yet.

**Mr Cordiano:** I'm contemplating that there will be one.

**The Vice-Chair:** Mr Owens has the floor.

**Mr Owens:** I'd like to move a motion that the Ministry of Health be thanked for its four hours and 10 minutes on the witness stand and that the Ministry of Community and Social Services take the—

**Mrs Marland:** How long?

**Mr Owens:** Three hours and 10 minutes.

**Mrs Marland:** Four hours and 10 minutes?

**Mr Owens:** With you, it's a lifetime, Margaret.

**The Vice-Chair:** Would you please write that out?

**Mr Owens:** I'm just basically asking that the committee thank the Ministry of Health for the hard work that it has done this afternoon and that the Ministry of Community and Social Services now take their place at the witness table.

**Mrs Marland:** It would be better to continue.

**The Vice-Chair:** Would you write that out, please, Mr Owens. Is there some debate?

**Mrs Marland:** Let's just continue.

**Mr Owens:** May I finish my point?

**Mrs Marland:** Do you want us to take 20 minutes to get the members to come and vote or can we just continue with the questions?

**Mr Owens:** Can I finish my motion?

**Mrs Marland:** You've had questions since you said we should've finished before, and I thought that was great. You still had your own questions to ask.

**Mr Owens:** I'm not sure why that member's microphone is still on while I have the floor.

**The Vice-Chair:** Could we have some order, please.

Mr Owens, you're making a motion. Will you please write out the motion. I think the motion is clear. Is there debate? Mrs Marland, you were commenting on this.

**Mrs Marland:** I'm not surprised that we would have a motion like this, when you try to ask questions and it's

clear that not all the answers were available to all the questions this afternoon. Whether or not the ministry staff have sat here for three hours is not relevant. The ministry staff are being paid to do a job, and I don't think they need the government members to defend them in terms of how long they're here answering questions of this committee.

1610

I thought Bill 120 was supposed to be a fairly significant piece of legislation of this government, and if the government members don't want us, as members of the opposition, to be able to ask questions of the ministry—it's unfortunate, as I said earlier, that it's the ministry staff and not the minister—then that's going to be the option of the government members, who have control of this committee by their very number. If that's the process we're into, it's just going to be the same as every other standing committee of the Legislature when we try to get answers on behalf of deputations who came before this committee, who have all told us there was insufficient consultation on this bill. The whole process is ludicrous, because obviously in the end the government's going to do whatever it wants with this bill and whatever it wants with our amendments. It's total frustration.

The very fact that there have been interministerial committees dealing with this overall subject indicate that it's a very important subject, a very important problem for the people of this province. We're just not convinced, the way this bill is drafted, that it's going to address the problems and be the remedial direction that is needed. That's all we're saying. We'd like to know a little bit more, and we're asking questions for that reason.

It's unfortunate that after three weeks of deputations that raised questions to us, now in turn the government is saying: "Enough of that. We're going to place this motion. Close it off. Move on to the next ministry. That's enough of those questions." Interestingly, that's being moved by a member who said that about 45 minutes ago and then still had his own question to this ministry. He obviously still had questions. Perhaps the rest of us might.

Well, I guess we've got the solid five here now to vote against it.

**Mr Gary Wilson:** In the original motion, it was foreseen that the questions of these two ministries would take the afternoon. Anyone who went along with this arrangement should expect that the time would be divided evenly between the two ministries. In any case, I think it is time to move on to the Ministry of Community and Social Services. If they have more questions, they will have that ministry to ask them, but I think it's important that we fulfil the intent of the motion that set up this afternoon.

**Mrs Marland:** I hope you've sent for your other members. It's going to be a tie if you haven't.

**The Chair:** This is a very interesting motion, I would say, in that the Chair had exhausted his list of people who wanted to ask the ministry questions.

**Mr Owens:** Then let's move on. This is silly.

**Mr Cordiano:** We have to deal with the motion. It's

been put on the floor, so we have to deal with it.

**Mr David Johnson:** It's a silly motion.

**Mr Cordiano:** It's a silly motion, I agree, but we have to deal with it. Why don't we just deal with it?

**Mr White:** I'm curious, Mr Chair. If there are no other people who wish to speak, could we not just move on to the next ministry and be done with it? I'm sure Mr Owens would be willing to—

**The Chair:** I find that rather curious, but we do have a motion on the floor.

**Mr White:** I also would like to make note of the fact that while my personal difficulties that compelled me to remove myself from caucus a month ago were satisfactorily resolved this morning, I'm not a member of the government caucus, so Ms Marland's reference to there being numbers is not accurate.

**Mrs Marland:** On a point of order: Mr White, are you saying you're not a member of this committee?

**Mr White:** I'm a member of this committee.

**The Chair:** The point of order would be to the Chair.

**Mrs Marland:** Sorry, Mr Chair. I understood that Mr White was a member of this committee.

**The Chair:** Mr White is a member of this committee.

**Mr Grandmaitre:** And a voting member.

**The Chair:** All members of the committee are voting members.

Mr Owens has moved that the Ministry of Community and Social Services come to the committee on general government now and that they appear until 5 o'clock today, March 4, and that the clause-by-clause commence Tuesday, March 8, at 10 am.

**Mr Gary Wilson:** Could I move for a five-minute recess on this, please?

**Mrs Marland:** Oh, yes, run and get your little package.

**The Chair:** A 20-minute recess is what the standing orders require, Mr Wilson.

**Mr David Johnson:** Do they have the right to withdraw that motion if they choose?

**Interjection:** Of course we have.

**Mr David Johnson:** Are there any other people on the list?

**The Chair:** There are no other people on the list.

**Mr David Johnson:** Then another course of action would be to withdraw it. Let's get going here. Why do we want to waste five minutes?

**Mr Owens:** Do I hear unanimous consent?

**Mr David Johnson:** There's no consent. It's up to you; it's your motion.

**Mr Owens:** No. I'm suggesting that if we're going to continue playing games here for the rest of the—

**Mr David Johnson:** Suggest whatever you want to suggest. It's your choice.

**Hon Ms Gigantes:** Is there agreement to move on?

**The Chair:** Order. There is a motion by Mr Owens.

**Mr David Johnson:** It's up to him whether he



withdraws the motion.

**Mr Owens:** I haven't had my opportunity to speak to the motion. I'll ask a question through the Chair: Is the member for Don Mills saying in good faith that if the motion is withdrawn he and the rest of his colleagues on that side of the House are not going to move directly back on to the speakers list and we start this whole process again? Or do we just conduct the vote, subject to a recess?

**Mr Grandmaître:** Trust us.

**Mr Owens:** You were trusted for six years with 95 members, and look what happened.

**Mr David Johnson:** What a waste of time. Mr Chairman, how can I speak for all the people on this side? My name is not on the list, and I'm not going to put my name on the list, for the Ministry of Health. I want to put my name on the list—and I'll do that right now, Mr Chairman—to be first for Comsoc. But what the other people over here do is up to them.

**The Chair:** I will put Mr Owens's motion if he doesn't withdraw.

**Mr Owens:** I'll withdraw the motion.

**The Chair:** Thank you. I'd like to thank the Ministry of Health for appearing before the committee this afternoon. Your presence has been appreciated, probably more so by the Ministry of Community and Social Services than anyone else.

1620

#### MINISTRY OF COMMUNITY AND SOCIAL SERVICES

**The Chair:** Now we have a presentation from the Ministry of Community and Social Services. Good afternoon.

**Mr Owens:** Before we start these proceedings, just so we don't end up with a week of Comsoc being examined, I suggest we finish with Comsoc at 5 o'clock today and move into clause-by-clause tomorrow morning.

**The Chair:** Mr Owens, if I can be helpful, the motion Mr Daigeler presented and which the committee is operating under calls for the two ministries to speak to the committee this afternoon; it makes no provision for them to speak at any other time. That is my interpretation of Mr Daigeler's motion.

**Mr Owens:** I want to ensure that that is in fact the case so there is no lack of clarity.

**The Chair:** Welcome. I understand you have a statement for the committee, and then the members may have some questions.

**Mrs Marland:** How long is the statement, please?

**Ms Lucille Roch:** You have a copy of it. It's about four pages. Sorry. Your two-page copy is the same version; it's just that mine is spaced out over four pages.

My name is Lucille Roch. I'm with the Ministry of Community and Social Services. With me are Ted Moses, a policy analyst with the community services branch of the ministry, and Mary Pat Koskie, from our legal services branch.

The Ministry of Community and Social Services has been an active participant in the interministerial efforts

that resulted in Bill 120, and we'd like to start off by saying that we're supportive of the legislation and of its intent.

Our focus will obviously be on our programs. We don't intend to comment on other elements of the bill, granny flats, for example. Many of our programs will be affected by Bill 120. Some of those include: group homes for people with developmental disabilities; dom hostels for elderly people and consumers of mental health services; alcohol and drug recovery programs; second-stage housing for violence against women programs; and residential programs for young people in employment training programs.

We have worked closely with staff from the other ministries involved to review the recommendations of the Lightman report and to develop recommendations to cabinet that ultimately resulted in this act. We're pleased to have played a part in the extension of rights and protections to a broad range of heretofore unprotected tenants.

Ministry clients receiving these additional protections include persons with developmental disabilities who live in group homes on a permanent basis, and residents of dom hostels whose long-term accommodation in rest homes and boarding houses is subsidized by the ministry.

While substantial changes in the relationship between service providers and residents will result from these changes, we think they would be positive for the residents. Especially important is the fact that they will have security of tenure; that they will not be at risk of losing their accommodation because they have service needs or because their service needs change. We expect that operators will go through a period of transition as they and their residents adjust—

**Mrs Marland:** Our copy isn't the same as you're reading.

**The Chair:** You may continue.

**Ms Roch:** We expect that operators will go through a period of transition as they and their residents adjust to the new rules. The ministry is prepared to offer support during this period. We will be working with operators and clients and with other ministries to ensure that information is shared promptly, and we will be providing support to ensure that the process results in the least disruption possible.

The changes to the Landlord and Tenant Act will facilitate the ministry's movement towards separation of service and accommodation, a trend that has been evident for more than seven years. With the separation of services and accommodation, clients can remain in their homes when service needs change. They are not required to move to get a slightly higher or lower level of service, or if they come to need no service at all. This approach has been adopted successfully for a wide range of client types, including people with developmental disabilities, people with physical disabilities and elderly people.

While changes brought by Bill 120 will further the ministry's approach in the area of permanent housing, Bill 120 will also have an impact on another of our groups of clients, those in transitional accommodation.

That refers specifically to those programs under the alcohol and drug recovery programs, second-stage housing for violence against women and residential programs for young people in employment training.

The changes with particular impact would be the principal residence clause and the six-month average clause in the rehabilitation and therapy exemption. The principal residence clause could be too restrictive for people who would in most cases have no means to maintain another residence because they were on social assistance. It's our understanding that the principal residence test is being removed, and we support this.

The ministry is aware that some service providers have expressed concern that the six-month average in the rehabilitation and therapy exemption does not allow enough flexibility to effectively run their programs. Some operators have indicated that the point of their program is rehabilitation and not housing.

It's our understanding that an additional ground for eviction has been proposed by the Ministry of Housing to allow eviction when the contracted period of rehabilitation or therapy has expired and that this contracted period has been extended to two years. We believe that this provision goes a long way to addressing operator concerns. This provision is in addition to those already in the act, such as the ability of the operator to serve notice of eviction for interfering with the reasonable enjoyment of the premises by other tenants.

Thank you for the opportunity to make a statement.

**Mrs Marland:** On a point of order: Could we have a copy of your copy? For example, on the first page you—well, it's not your first page because yours is printed differently, but there are a number of changes from what we have and what you read, and some of them are important. You said the principal residence clause—

**The Chair:** Mrs Marland, if the point of order is that you would like a copy of the presentation of the ministry as it read it, the clerk can look after that for you.

**Mrs Marland:** Yes, I would like that. But can I ask which part of this sentence the ministry wants us to accept? In one case it says "in the majority"—

**The Chair:** You will have the opportunity to ask specific questions during the time allocated.

**Mr David Johnson:** A lot of the same questions pertain here. You've been sitting through the previous round of questions, so you know what they are.

You say on the last page that there has been some change in the eviction process and that you believe "this provision goes a long way to addressing operator concerns." That's certainly not the message we're hearing, and I guess you appreciate that. The operators are giving us a different impression.

Would you specifically indicate to us what aspect of the eviction process will assist the operators who are concerned? They feel that many of them will not be exempt under the six-month provisions. There's any number of examples. Ecuhome would be one and the Massey Centre would be a second that, from the way I look at it, wouldn't be exempt. Many of these operators will not be exempt and the Landlord and Tenant Act will

apply, and if they have difficulty—and you've heard a number of the difficulties here over the last three hours. How is it that you think there is a provision in here that will assist the operators in dealing with this problem?

**Ms Roch:** One of the issues that some of the operators have been raising is the fact that some of their programs, on average, will take longer than six months. Some operators have indicated that their programs, on average, are of an 18-month duration. We feel that the proposed amendment to extend this to two years would be of some comfort to these operators.

**Mr David Johnson:** Extend what to two years?

**Ms Roch:** It's our understanding that the Minister of Housing has proposed that those operators who provide programs that are of longer duration than six months would be covered by the Landlord and Tenant Act, but could have grounds for eviction based on the fact that the individual has terminated the program and that the program is of two years' duration maximum.

**Mr David Johnson:** Is that amendment in the original list or is that a new one that's come in?

**Hon Ms Gigantes:** No, this was tabled—

**Mr Grandmaitre:** It's part of the package.

**Hon Ms Gigantes:** I believe it was received by your offices earlier today. It amends subsection 2(1).

**Mr David Johnson:** Okay, we'll have a look at that.

**The Chair:** Mr Mammoliti, a point of privilege?

**Mr Mammoliti:** Is there such a thing, Mr Chair?

**The Chair:** There is, depending on what you say.

**Mr Mammoliti:** All I want is a copy of these amendments which are being—

**Mrs Marland:** They're yours.

**Mr Mammoliti:** I didn't get a copy of these amendments, Mr Chair.

**Mr Grandmaitre:** Where's your whip? I'll be your whip, George.

**The Chair:** All the amendments have been distributed to all the members. It's a yellow package, I'm told.

**Mr Mammoliti:** This particular amendment I haven't got, Mr Chair.

1630

**Mr David Johnson:** Could we be informed, Mr Chairman, under what conditions, if an operator such as Ecuhome—I understand Ecuhome, for example, would be eligible to come to—well, to whom, to the Ministry of Housing? What would be the procedure, as you understand it, for the groups under your funding to get an exemption?

**Mr Ted Moses:** My understanding is that Ecuhome is long-term accommodation, and we're talking about accommodation in which no one would live longer than two years.

**Mr David Johnson:** So I assume what's being said here is that if the average period of time is, let's say, 22 months, which is under two years, that particular facility would be eligible to be exempt from the Landlord and Tenant Act. Is that what you're saying?

**Mr Moses:** No. The facility would have the opportu-



ity to use a new grounds for eviction.

**Mr David Johnson:** A fast track?

**Mr Moses:** Not necessarily a fast track, but they could contract with the individual at the time they come into the program for a specific duration, and once that duration had passed they could serve notice of eviction.

**Mr David Johnson:** So that agreement would supersede the Landlord and Tenant Act, is that what you're saying?

**Mr Moses:** No, this would be under the Landlord and Tenant Act.

**Hon Ms Gigantes:** It would be a new provision within the Landlord and Tenant Act.

*Interjections.*

**The Chair:** It's helpful if we have one member speaking at a time and one response at a time. Right now the ministry is responding.

**Mr David Johnson:** Have you finished responding? They have finished responding.

I still don't quite understand that. There would be a new clause in the Landlord and Tenant Act that such a facility, if there were a contract with a certain individual and the contract were for under two years, could then "evict" that individual at that point in time?

**Ms Roch:** If that individual refused to move out.

**Mr David Johnson:** Would that same clause apply to the Massey Centre?

**Ms Roch:** The Massey Centre, correct me if I'm wrong, is a centre that offers programs for young women who—I think it's some kind of maternity home.

**Mr David Johnson:** That's right.

**Ms Roch:** It's my understanding that this would apply to them.

**Mr David Johnson:** So it would apply. The Massey Centre does receive funding, as I understand it, from your ministry, and one of the problems it's raised—which hasn't been raised here today; it's a different kind of issue—is with regard to security and safety.

"The majority of the women at the centre come from violent and abusive backgrounds," quoting from the brief, "and often are still subject to negative influences from their past. Their stay at the centre gives them a chance to make a break from the destructive relationships in which many of them are involved. The regulations"—these are the current regulations in place today, and I understand this would be forbidden under the Landlord and Tenant Act—"prohibit overnight male visitors, allow for the removal of threatening individuals from the units, and permit the discharge of residents who engage in drug activities" and many other things. Then they go on to talk about the young infants and that a safe environment is essential for the high-risk children.

They are concerned that under the Landlord and Tenant Act they will not be able to—I don't know if the word is "evict"—remove the males who are associated with the females onsite; that whereas today they have the power to do that, once Bill 120 comes into place they will lose that power, and this is of grave concern in the

success of their program. I wonder what your response to that is.

**Ms Roch:** It was my understanding that one of the terms of eviction, if I can put it that way, possible under the Landlord and Tenant Act is the safety of other people occupying the premises.

**Mr David Johnson:** We're not talking about eviction here, though; we're talking about a mother who's living on the site and a male visitor comes who is abusive, violent. Today they have the authority to remove those male visitors, but once the Landlord and Tenant Act kicks in, they do not have that authority.

**Hon Ms Gigantes:** Of course they do. That's nuts.

**Mr David Johnson:** They don't think they do. The minister thinks they do. They operate the place, and they don't think so. I know whose opinion I would follow.

**Ms Roch:** I thought assaulting someone or threatening to assault someone was a criminal issue. If these males are going into these homes and being threatening or abusive to these young girls, I don't think the centre has much option but to call in the police, even with voluntary visitors.

**Mr David Johnson:** Have you had a chance to talk to the Massey Centre about this problem?

**Ms Roch:** No, I haven't.

**Mr David Johnson:** Have they approached you to discuss it?

**Ms Roch:** No, they haven't.

**Mr David Johnson:** Yes, they have. I can see them nodding in the back row that they have. At least the ministry; I don't know about you individually.

**Ms Roch:** Well, maybe the ministry; I'm sorry.

**Mr David Johnson:** Is there anybody else here representing the ministry who—the Massey Centre has expressed this concern. They were here, made a deputation, and it's right in their brief. I can't believe somebody doesn't know about it. Is there anybody else here who can speak to it? No.

**Mrs Marland:** Let them answer the question whether there's somebody else here or not. We need to know that. Is there someone here from the ministry who can answer Mr Johnson's question?

**Ms Roch:** If his question was, have we been contacted by the Massey Centre, I can say that I haven't been personally. That doesn't mean that no one else in the ministry has been. I've got Ted Moses here, a policy adviser from the ministry, and I have legal counsel here, who may wish to answer the question.

**Mr Moses:** I haven't been contacted by the Massey Centre either.

**Mr David Johnson:** Are you aware that their huge concern, in bold letters, is "The issue of security is paramount"?

**Ms Roch:** I read Hansard, yes.

**Mr David Johnson:** You read it, but you're not aware of—

**Ms Roch:** I can't say that I'm not concerned. Having said that, we realize that by introducing the Landlord and

Tenant Act, we are moving into a brave new world, if I can put it that way, where we will be working with our service providers to make them understand the full impact of the legislation. We'll also be working with the Ministry of Housing to provide them with some support.

Some comments were made today about service providers who have difficult-to-house or difficult-to-serve tenants and have been able to operate under the LTA. What we would like to do as a ministry is meet with those providers and see what we can learn from their experiences so we can then help our own service providers, who are now moving into basically new territory.

**Mr David Johnson:** I give up.

**Mr Cordiano:** The critical issue for me is the period for exemption, the six months. I chatted with the minister about the new section 2.1 that's being proposed by way of amendment. Do you anticipate dealing with this provision for an exemption to allow for eviction in the case of rehabilitative or therapeutic services provided in that particular home? Perhaps this is not an appropriate question to you, but it is in this context. Obviously, you feel comfortable with this proposed amendment, as you stated in your remarks, that it will allow for the flexibility that's necessary for these therapeutic and rehabilitative centres to continue to do the kind of work they were doing until now.

1640

My question really is around whether a home can now evict someone before two years have expired, because that's what the amendment deals with. It states that there will be a tenancy agreement and that the period of the tenancy agreement will apply, and that the maximum stay will be two years. Am I interpreting this correctly?

**Hon Ms Gigantes:** What is being provided is an additional grounds for eviction under the Landlord and Tenant Act that would apply in a case where there was an agreement about a program designed to achieve therapy or rehabilitation and that program had a duration of less than two years.

**Mr Cordiano:** So there has to be an agreement in place. Would this be provided for all rehabilitation centres and therapeutic centres?

**Hon Ms Gigantes:** Centres could decide whether they wished to have such agreements and would lay out the terms of such agreements. There are programs now which operate without such agreements.

**Mr Cordiano:** In effect, what we're getting is an extension of the six-month period to a 24-month period.

**Hon Ms Gigantes:** No.

**Mr Cordiano:** No? How does it differ? Explain.

**Hon Ms Gigantes:** The six-month average affects the application of the Landlord and Tenant Act in total. It is a total exemption.

**Mr Cordiano:** I understand that, but in practical terms, when most of the centres that have come before us have suggested that their average length of stay is 18 months, this would now apply to most of those centres.

**Hon Ms Gigantes:** What it means is that a centre operating such a program would seek to have a contract

with each client which said that when the client had either completed the program or failed to complete the program within a two-year period, the client could be asked to move on, and that would be legally binding. Essentially, this addresses the problem that we are filling up spots in treatment and therapy programs and won't be able to move new people into those spots. That is the problem being addressed by the proposed amendment.

**Mr Cordiano:** That was, from the outset, the concern that was expressed on committee, and that was the concern expressed by opposition members, in the main. I'll speak for myself. It was the major concern.

**Hon Ms Gigantes:** That's one concern. There are others.

**Mr Cordiano:** Of course there are others, but my main concern was around this question of flexibility and the ability of rehab centres to continue to provide the services they provide, with the average length of stay being, as was summarized by deputants who appeared before this committee, 18 months. I'm going to have to examine very carefully the impact of the six-month period in relation to how many centres are affected by that, how many are captured within the provisions you set out in your new amendment. I understand there may be differences between those who provide certain types of programs not having to exceed the six-month period.

Quite honestly, we didn't hear from anybody who said their programs were of a six-month duration. What we heard was that in the programs they provided, the average length of stay was 18 months. What I envisage happening here is that most people who provide those rehab services would move to have these tenancy agreements in place in order to be as flexible as they can when they operate these facilities, so in a sense, that six-month provision in the act becomes redundant for most of those operators.

**Ms Roch:** I thought I heard the Ministry of Health people say that some of their programs were six months or less. We're more concerned about ours where we've been told that the six months is inadequate because their programs generally last longer than that.

**Mr Cordiano:** So your average stay in the programs under Comsoc is in the 18-month range?

**Ms Roch:** It depends on the program. From reading Hansard, the association representing alcohol and drug recovery programs make the point that on average their programs last 18 months. I concur with that, although we know there are some programs that discharge their people after eight months. There's some variation.

**Mr Cordiano:** You have to understand. I'm trying to convince myself that this amendment that's going to be put forward by the government will be effective and that perhaps I don't need to put forward my own amendment, but I'm not sure that is the case. I'm just trying to examine this.

What you're telling me is that the six-month exemption is absolutely necessary because there are certain types of programs that operate on that six-month window, that by and large, most of them fall within that category. But there is the provision under this section to capture those that operate under a longer period of time. I'll repeat my



question. Why is it necessary to have a six-month exemption period? Why not include everyone under that 18-month or 24-month provision as stated by this amendment? Why have the difference? I can't understand.

**Hon Ms Gigantes:** They achieve two different purposes.

**Mr Cordiano:** I'm not convinced that is the case, when the vast majority of deputants who have come before us say their average length of stay is 18 months, and when the data presented to us are just that. That's the difference.

**Hon Ms Gigantes:** They don't say that.

**Mr Cordiano:** I'm not convinced of that. Unless you convince me otherwise, that's the belief we have.

**Mr Grandmaître:** Can I ask a supplementary question? In the programs you're offering at present, and there is a great number of programs, what would be the magical number of programs that exceed six months?

**Ms Roch:** Under our second-stage programming, for example, we're told that the overall average occupancy rate is about seven and a half months.

**Mr Grandmaître:** That's the average?

**Ms Roch:** Yes. However, our data show that there seem to be two trends: Some women seem to leave these programs after two or three months, while others stay for much longer, 10 or 14 months.

**Mr Grandmaître:** But the average is seven and a half months?

**Ms Roch:** Yes. Under the alcohol and drug recovery programs, we've heard it's on average between nine and 12 months, although I do reference the presentation made to you where the association indicated 18 months. Under our Futures residential programs for youth, the average stay seems to be between nine and 12 months.

**Mr Grandmaître:** Did you have an opportunity to discuss this with the Ministry of Health?

**The Chair:** Thank you, Mr Grandmaître.

**Mr Grandmaître:** That's a follow-up question, Mr Chair.

**The Chair:** There's only one supplementary.

**Mrs Marland:** Mr Chair, I did request that Ms Roch's copy of what she read be made available to the committee. That apparently hasn't happened. Could we have a copy of what you read?

**Ms Roch:** You can have a copy of what I read.

**The Chair:** You also may cross-reference it with Hansard when it becomes available.

**Mrs Marland:** In the copy we have, and this is why I'm looking forward to having your copy—I can't tell you where it is on yours, but on mine it's page 2. The previous paragraph is, "With the separation of services and accommodation, clients can remain in their homes when service needs change." The next paragraph on mine starts, "While somewhat at odds with the models of the 1970s and 1980s, this approach has been adopted successfully...." Yours doesn't read that any more, does it?

**Ms Roch:** My copy still reads that. I just didn't read it word for word.

**Mrs Marland:** No, you didn't. I wondered why you didn't read, "While somewhat at odds with the models of the 1970s and 1980s." I have a press release here dated 1989 issued by Comsoc. Interestingly enough, the contact at that time was Michael Ennis; he's gone from Comsoc to Health in the meantime. This news release in 1989 is announcing, "Ecuhome Corp agreement signed today." It was a big day when that agreement was signed. Obviously Comsoc thought it was a very important program. Now we have a situation where, listening to some of your answers today, you obviously don't share the concerns Ecuhome brought to this committee in its deputation.

1650

**Ms Roch,** in your introduction, you mentioned that Mr Moses is a policy analyst, but you didn't say what your position is with the ministry.

**Ms Roch:** I'm the assistant deputy minister for children, family and community services.

**Mrs Marland:** So if I remind you that Comsoc actually defended Ecuhome's right to be exempt from the Landlord and Tenant Act, would you recall that particular challenge?

**Ms Roch:** No, I wouldn't, I'm sorry. I wasn't with the ministry then.

**Mrs Marland:** Is there anybody in the room who was with the ministry at that time?

**Ms Mary Pat Koskie:** I haven't been involved with it. I think another counsel in my branch has been involved with that.

**Mrs Marland:** Do you not think it's interesting that that is the case, that there was an example where Comsoc agreed with what Ecuhome is saying to this committee and in fact paid for that opinion in defence of Ecuhome's wish to be exempted from the Landlord and Tenant Act? It was last year. Do you not have any opinion on that?

**Ms Roch:** I'm sorry. Your question is, how come we're not defending Ecuhome today?

**Mrs Marland:** If the ministry supported Ecuhome's position in being exempted from the LTA a year ago, why are you not concerned about it today?

**Hon Ms Gigantes:** That's what the change means, Margaret.

**Mr Moses:** There are also other programs that would be covered under the Landlord and Tenant Act which have been exempted up to now. As Ms Roch pointed out, the group homes we provide for people with developmental disabilities have up to now been exempted from the Landlord and Tenant Act. Other programs such as the domiciliary hostel program, which is part of a large bloc of rest homes, have been exempted from the Landlord and Tenant Act and with these changes would be covered by the Landlord and Tenant Act.

**Mrs Marland:** But the point I'm making is, do we have a clean sweep where everybody in Comsoc is brand-new and has a new philosophy and things have changed? This agreement with Ecuhome, according to this press release, was June 26, 1989, and we have an example less than a year ago—

**Ms Roch:** I'm sorry. You said 1989?

**Hon Ms Gigantes:** There was a court case.

**Mrs Marland:** No, June 1989 is when the Ecuhome agreement was reached. Mr Sweeney was the minister. This press release says in glowing terms what this program means to the people who will benefit from it. We have this organization before this committee telling us that if Bill 120 goes through, this program will be killed. That's the nuts and bolts of what we're dealing with here. Is there not a concern on Comsoc's part, which was a proponent of this program, that this program, which you have not only been—I realize it's not actually you, but your ministry. They have been partly the architects of this program and the funders. Does it not concern you to know that the people who have been managing this program have been before this committee with the kinds of concerns they have? Have you read their brief?

**Ms Roch:** Yes, I did.

**Mrs Marland:** So what is your feeling?

**Ms Roch:** The committee, from what I can gather, has been receiving deputations from a number of providers who are concerned about a number of issues. What we're saying is that we think the benefits outweigh the difficulties, but we will be working with our service providers over the next while to address some of these issues. Some of our service providers have never, ever worked under the Landlord and Tenant Act and we will need to provide them with some supports.

**Mrs Marland:** You give Ecuhome \$1.5 million a year for their program. You must believe in their program. They're telling you why they can't operate under the Landlord and Tenant Act.

**Ms Roch:** We also have other service providers who are telling us it is possible to operate under the Landlord and Tenant Act.

**Mrs Marland:** I'd like to know the names of hard-to-house residents who are happy with the Landlord and Tenant Act.

**Mr Moses:** We've got Homes First, for example, which uses the Landlord and Tenant Act.

**Mrs Marland:** Homes First is happy?

**Hon Ms Gigantes:** They use the Landlord and Tenant Act.

**Mrs Marland:** I'm just asking the staff, Madam Minister. I'll ask you later, the other sections of the bill.

**Ms Roch:** It's difficult for us to say whether they're happy. The point is that they are operating under the Landlord and Tenant Act and—

**Mrs Marland:** Excuse me, Ms Roch. One of you said a minute ago that you do have providers who are happy with the Landlord and Tenant Act. I'm asking you to name them.

**Mr Moses:** Over the past seven years our ministry has been involved with the Ministry of Housing in developing supportive housing programs on the order of 5,200 beds. We've developed, with the Ministry of Housing, about 400 projects. All of those projects are required, by virtue of the requirements of the Ministry of Housing, to operate under the Landlord and Tenant Act, and they're

still operating. Many of the programs provide services to hard-to-house individuals. The services required by the people served by our ministry are often fairly high-level services, and they seem to be able to operate under the Landlord and Tenant Act. In fact, the provisions that have been introduced here provide them with some tools to continue to do that, even under the LTA if they had been outside of the act up to now.

**Mrs Marland:** Could you give us some names, please, that are happy to work under the LTA?

**Mr Moses:** I'm not in a position to determine whether they're happy. We're simply saying we've had non-profit organizations come forward and ask to be part of this program, to be part of supportive housing.

**Mrs Marland:** Supportive housing with a treatment aspect, or just supportive housing? The reason I zero in on the Massey Centre and Ecuhome is because they have been before the committee and have been very forthright and very direct and very specific about the program they provide. They are the service providers the Ministry of Health talked about and that you're here talking about. We're sitting here as members listening to what the public is telling us—

**Mr Gary Wilson:** Selectively listening, Margaret.

**Mrs Marland:** The professionals who run Ecuhome and the Massey Centre perform a tremendous service to people in tremendous need, and it concerns us gravely that those programs may be at risk. I'm simply asking you, as the professionals in the ministry that funds them, how you can defend a piece of legislation that's going to put them out of business. That's all I want to know.

**Mr White:** Their business isn't in question.

**Mrs Marland:** Oh, you're saying it's a business and that's all. I mean they'll be out of practice. You're being funny about the words, Mr White.

I'm talking about a needed service, Mr Moses and Ms Roch, by people who are in a desperate situation. Are you not concerned about what those people came and told this committee?

**Mr Moses:** We agree that we're going to have to work with these organizations and that there will have to be some modification to programs.

**Mrs Marland:** In what way?

**Mr Moses:** For example, there are provisions in the Landlord and Tenant Act for developing an occupancy agreement to establish a relationship between the occupant and the tenant. There's been some discussion about the inability, for example, in rest homes to make bed checks on tenants or residents. It's possible to go into a unit, we understand, either with the understanding or perception that there's an emergency in the unit or on the consent of the resident. On the bed checks, for example, if the organization establishes an occupancy agreement indicating that bed checks will be done at specific times—and these can be varied by certain days of the week or even different times on the weekend—the organization can make those bed checks, and if they don't hear a response they can perceive that as an emergency and enter the unit. They can have that agreement with the organization.



They don't have that occupancy agreement at the moment, and it will be a different practice for them if they have to set up occupancy agreements. Occupancy agreements can also spell out other aspects of the relationship with the tenant, such as subletting. There have been some concerns expressed about subletting of units. We think these can also be handled through occupancy agreements.

**The Chair:** Thank you very much for coming to see us this afternoon. We appreciate your information.

**Mr David Johnson:** I have a question. I'm reviewing the government amendments I received Friday afternoon—no, that I received this morning, actually. This amendment with regard to extending to two years, for the Landlord and Tenant Act, is not in my pile. I'm wondering if it's just my pile that's remiss or—

**Hon Ms Gigantes:** I believe they're in the yellow package.

**Mr David Johnson:** They're in the yellow ones, but we received the yellow ones about 1 o'clock, right at the beginning. I did receive the government's list this morning, so I went through this list all by itself.

**Mr Owens:** The third to last page.

**Mr David Johnson:** Well, it's certainly not in order, at any rate. I'm looking at the third to last page, and it's not there either. I've looked right through here and it's not here. Maybe it's just the copy I got, I don't know, but it's definitely not in—

**Mr Owens:** It's a secret plot.

**The Chair:** I don't quite understand, Mr Johnson. Do you have a copy of the amendment?

**Mr David Johnson:** I've now got it, but I was made aware of it only about 15 or 20 minutes ago. I find it curious, because this could be a key clause and it was not in the original list I got. It was in the yellow one, but we only got the yellow one—

**The Chair:** The minister's about to reply to your question, Mr Johnson.

**Hon Ms Gigantes:** Mr Chair, I know it doesn't meet all the concerns that are being raised, but the Ministry of Housing called the offices of the opposition critics and indicated the nature of this amendment on Friday. The fact that you didn't have it physically until today is—

**Mr David Johnson:** I was unaware of it until about half an hour ago when it was raised by the deputation.

**Hon Ms Gigantes:** I don't know who the call went to, but there were calls made on Friday to both the opposition parties to inform them of the nature of the amendment.

**Mr David Johnson:** Could you determine whom it went to?

**Hon Ms Gigantes:** I'd be delighted.

**The Chair:** Thank you. We are adjourned until 10 o'clock tomorrow morning, when we will commence the clause-by-clause with any opening statements.

The committee adjourned at 1703.







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    Cordiano, Joseph (Lawrence L) for Mr Sorbara

    Marland, Margaret (Mississauga South/-Sud PC) for Mr Arnott

    Owens, Stephen (Scarborough Centre ND) for Mr Morrow

    Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Fletcher

### **Also taking part / Autres participants et participantes:**

    Gigantes, Hon Evelyn, Minister of Housing

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Yurkow, Russell, legislative counsel



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## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Tuesday 8 March 1994

# Journal des débats (Hansard)

Mardi 8 mars 1994

## Standing committee on general government

Residents' Rights Act, 1993

## Comité permanent des affaires gouvernementales

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Tuesday 8 March 1994

Mardi 8 mars 1994

The committee met at 1004 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Vice-Chair (Mr Hans Daigeler):** Good morning, ladies and gentlemen. We're here to continue the clause-by-clause on Bill 120. I just saw the minister leave.

**Hon Evelyn Gigantes (Minister of Housing):** No.

**The Vice-Chair:** No? Okay. As is the custom, I will allow some opening remarks from the minister and then from the critics of the two parties before we move to the first clause, if the minister wants to begin.

**Hon Ms Gigantes:** I hope we're not going to spend a lot of time making grand speeches but move quickly to clause-by-clause.

First, I'd like to wish everybody a happy International Women's Day.

**Mrs Margaret Marland (Mississauga South):** Yes, that was a nice way to start.

**Hon Ms Gigantes:** Second, to speak directly to the amendment which members of this committee saw for the first time yesterday, we had attempted to provide notice to opposition parties on Friday of the content and direction of the amendment we are proposing, section 2.1. We had some discussion around the objective of this amendment yesterday. If I could just repeat what I tried to lay out to members yesterday, it addresses the particular question raised by deputants before the committee about what happens when spaces in rehab and therapy programs are filled and people who have essentially completed their rehab or therapeutic portion of the program covered by the Landlord and Tenant Act under this legislation do not wish to move on to another residence and provide another opening in the program for somebody who is ready to take up that opening.

Our proposal is that the term of the therapy or rehab program would be set out to the person entering the program and if the term of that program is less than two years, then the person can be asked to leave once the term has been completed.

Essentially, what we're doing here is adding another ground for eviction under the Landlord and Tenant Act, subsection 110(3), and suggesting that where there is a

term set out, which is understood by both parties at the beginning of residence, within a two-year framework that term can be a cause for eviction.

I had spoken briefly to this amendment yesterday and I think the wording I used may not have conveyed the correct impression. I want to make it clear that this hasn't to do with whether the person is considered to be fulfilling program requirements of a resident or not. It has simply to do with the term. The program goals are associated with that term. They are understood by the resident and by the operator at the beginning of residency, and it is the time of that program objective, the outside time framework, attached to the program which is understood at the beginning and which can be used as grounds for eviction if that term is shorter than two years.

This is separate and distinct from the notion that a program which has an average length of residency of six months or less is not covered under this legislation. This legislation does not extend the Landlord and Tenant Act to such a program where the residency is on average less than six months. It's separate and apart from that element of the legislative proposal and addresses the question of how to ensure that people move on once they've completed the term of a rehab or therapeutic program.

I'd be pleased to answer any questions where I can shed any light or understanding on that matter.

1010

**The Vice-Chair:** I see Mr Johnson has his hand up, but I think any kind of questions should be asked when we get to clause-by-clause on these points. I think right now we're giving an opportunity for the minister and for the critics to make some general opening remarks. For the detailed questions, the critics may raise this in their remarks but I think we should finish that round first and then go to clause-by-clause.

**Mr Joseph Cordiano (Lawrence):** Are we asking questions now? I'm sorry?

**The Vice-Chair:** No, some general comments that you wish to make, as is the custom at the beginning of clause-by-clause.

**Mr Cordiano:** Okay.

**Hon Ms Gigantes:** Which happened yesterday.

**The Vice-Chair:** As the minister says, "Which happened yesterday." Yesterday we were listening to and questioning the Ministry of Community and Social Services and the Ministry of Health.

**Mr Cordiano:** I'm disappointed, Minister. I thought you might be interested in what I have to say.

**Hon Ms Gigantes:** Always.

**Mr Cordiano:** Obviously, I need a little patience from members of the opposite side. Let me start off by saying that I thought that in approaching this today, having come to this point in time where we're going to deal with clause-by-clause, I thought that perhaps there were indications from the other side that we would in fact see a significant number of amendments. But I've looked at the set of amendments that have been proposed by the government and I'm not convinced that they go nearly far enough in addressing the concerns that have been put forward by deputants. The latest amendment, the addition of 2.1, is certainly a small step in that direction but I don't feel it goes nearly far enough.

Let me start off by saying in my opening remarks that we heard from witness after witness that the fact was there were numerous problems with this legislation. Municipalities, fire departments, advocacy groups and care providers all expressed real difficulty with the legislation. What they said was, "Please don't ignore our concerns because we have to deal with these problems directly on a day-to-day basis."

Quite frankly, I wasn't too thrilled with the response that we were getting from the other side and the kinds of questions that were being posed by the members opposite to these deputants. It seemed to me that throughout the hearings what we got from government members repeatedly was their strong desire to try and educate deputants about the correctness of Bill 120 and the appropriateness of it, rather than a desire to hear what deputants had to say and their legitimate concerns about the legislation.

I'm not surprised that this has been the case because we've seen this in previous efforts at passing legislation, and this is a style of governance that we've seen repeatedly by this government. But it is my hope, however futile—I see that the amendments will attempt to deal with some problems, but as I say, it is my hope that government members will look at the amendments we put forward as constructive and directed at resolving some of the real concerns we heard from deputants. It's very critical that they understand that we're dealing with some serious matters for those deputants. That these people have to provide care in very difficult circumstances and that they are providing the kind of service citizens of our province need should not be overlooked.

It was my concern yesterday, particularly after having heard from both the Ministry of Health and the Ministry of Community and Social Services, that essentially this legislation was an effort through a back-door mechanism—and I can only describe it as this, because it was my surprise actually that the witnesses who had come before us never really expressed this concern that Bill 120 in effect will change the very nature of the way in which these rehabilitation centres operate.

They will now have to become housing providers rather than rehabilitation centres, as they were designed to be in the first place. Their whole *raison d'être*, their whole reason for existence, was to provide rehabilitative services to the clients they serve, but in effect Bill 120 will change the way in which they operate, notwithstanding the amendment that has been put forward by the

minister on section 2.1, which I think still forces these rehab centres to operate under very constrained circumstances, that is, under the Landlord and Tenant Act, because most of them, as we said repeatedly yesterday, have an 18-month average stay for their clients and that is what most of their programs are designed for.

For me, that would mean that essentially they could move to evict someone but they would have to do so within the confines of the Landlord and Tenant Act, providing no flexibility to remove someone from a difficult circumstance in a timely fashion.

We know from experience, from the history around the province, that to evict someone under the Landlord and Tenant Act could take anywhere between two and six months at the worst. That is an awfully long time to have to deal with someone in congregate living circumstances, shared accommodation. That's a very difficult situation in which to have to remove someone over a period of two months. It is unfortunate that we didn't see enough movement in terms of the amendments that were being offered by the minister.

The problem with this legislation, as we said right from the outset, was that you attempted to combine two very distinct pieces of legislation into one and called it a residents' rights bill, and that is the only common element that perhaps does exist, that there is an extension of rights to residents.

But when you look at the impact of each of these pieces of legislation, the impact is truly quite different and affects sectors that are quite distinct from each other. When you try to compare rooming-houses to homes that provide a long-term housing arrangement for seniors and rest and retirement homes, the kind of care that's being provided in those homes, what's taking place in a rooming-house versus what occurs in a rehab centre, these are very distinct, very different types of settings that have very different needs and that need to be dealt with differently.

We're seeing all of the problems that have been expressed before us in committee coming to the foreground and it's only the beginning; we're going to see many more problems down the road.

The question of intensification and the notion of allowing for the existence of accessory apartments, ensuring that all municipalities comply with what amounts to the minister's view of the world, which includes intensification anywhere, everywhere, and without regard to proper planning processes, I think seriously threatens the good intentions behind the principles of intensification.

The provisions of Bill 120 seem to suggest that the minister believes she knows what a proper level of intensification is and what any community could withstand. I think that's a very serious problem, Minister. When you begin to become the minister involved with what proper planning has to take place in a community, that's undermining the very notion of planning around the province. With one stroke of the pen, with this piece of legislation, to completely do away with planning around the province that takes place in each municipality is completely unacceptable. We heard that repeatedly, and



people around the province are now coming to realize that's in effect what Bill 120 would mean.

We heard repeatedly from municipal and fire officials that there are huge numbers of unsafe accessory apartments that will have to be brought up to standard. We heard that these units would require an additional expenditure by the owners in the range of between \$5,000 and \$10,000 to make these safe places to live. In reality, I don't believe there will be too many people motivated to spend that kind of money in these very difficult economic times. There's very little incentive to do so. On the other hand, there is very little in Bill 120 to make them bring their units up to standard. That's why we will recommend that all accessory apartments be registered with the municipalities and that municipalities be given the right to inspect the units to ensure that they are in fact safe.

#### 1020

Members of the governing side, the backbenchers in particular who will be voting on this—I have a great deal of confidence that most of the members realized during the course of these hearings that there were problems associated with this legislation. I have some optimism about the way in which some of them will proceed. Perhaps I'm naïve, perhaps I'm being idealistic about the democratic process, but I think there is hope that indeed we will have some interesting times ahead during the course of this week in a clause-by-clause setting.

The only thing I heard that was rather inconsistent with the expression of views by the members of the opposition was their view that legalizing accessory apartments in an effort to provide more affordable homes—that people would actually use accessory apartments to help finance their mortgages. They say people will take advantage of this interesting idea and more and more people will go out and actually buy homes as a result of the option to have an accessory apartment help pay for their mortgage.

If only that were true. On the one hand you say that, and on the other, when we talk about how many additional units will be created, most members have expressed the contrary view, that there won't be that many units created, that what we're in effect doing is legalizing what's there. So I'm confused about what that direction really is with regard to your beliefs.

That having been said, I think there will be some interesting impacts on the infrastructure. We heard from municipalities where there will be an increase in population in a certain particular point in a municipality, and a school, for example, won't be able to accommodate the additional children. In the entire municipality that may not be the case, but if you look ward by ward or if you break it down even further into smaller sections of the city, there may be schools that are overburdened at the present time and simply can't take the influx of children in that particular area. There is nothing in Bill 120 that would deal with that, nothing. We heard very little to satisfy our concerns with regard to that.

It's quite clear that the government has failed to prove what the impact of this legislation will be. When you legalize basement apartments, again we ask, would it make them safe places to live? Will the number of basement apartments increase?

Members of the opposite side say, "There's going to be an added incentive for people to go out and buy homes because they can now afford them with the accessory apartments." On the other hand, there won't be that many new units, because quite frankly, what we're doing is legalizing what's there.

On the residential care home side of the legislation, again, the presenters who came before us showed the gaping holes that exist in the legislation. Even Dr Lightman who provided us with his report finds the legislation lacking, and in questions to him directly he repeated that he was uncertain about the whole question of fast-track eviction, that he felt there was still a necessity for it.

We heard from those on the front line, those who have to deal with difficult problems each and every day. They pleaded with us to hear what are real problems to them. They said, "Surely you would not undermine the very programs that we deliver." In effect, that's what Bill 120 does, notwithstanding, again I repeat, the clause that has been suggested as an amendment by the minister.

Extending rights to residents in care facilities is something of course which I have always supported, and in fact the minister would recall that in May of last year I asked her a question in the House about her intentions with regard to the Lightman report.

It was at that time that we felt the government should move forward with some legislation dealing with this area. I say again that I would support the efforts of the main thrust of Dr Lightman's recommendations and the main thrust of Bill 120, but we see there is legislation that's before us that lacks balance and, I would say to the minister, that lacks a true effort at consultation with the service providers who are affected and the people who are affected in those homes.

There was a lack of consultation on the part of the ministry notwithstanding Dr Lightman's efforts on this, but we heard repeatedly from the groups, and I find it startling that it would be only the groups that presented to us that were failed to be contacted or consulted, because when we heard from the Ministry of Health and the Ministry of Community and Social Services yesterday, what I discovered was that Bill 120 was quite a coercive bill towards what they do, coercing these service providers, forcing them rather, to become housing providers, something which some of them have indicated they have no interest in being. In effect, you're putting them out of business by passing Bill 120.

That's unfortunate. I think many of the service providers have been stellar in their performance, have been dealing with circumstances that are quite difficult over the past three or four years in an economic downturn where we have seen an increase in the types of problems they've had to deal with.

I think it's quite unacceptable to us that you would attempt to undermine their programs and attempt to undermine their very existence without being as open and as honest about it, with all of us, because I haven't been privy to this. I think that for most of us on this side our first understanding of this, of the impact of what Bill 120 will lead to, the consequences, is just beginning to be understood.

At the end of the day, I've come to believe that the only way I understand it is as a coercive effort on the part of the government. It's a kind of coercive Utopianism. That's the way I think of it. You think of the world as becoming a place where people can all feel that they belong, and I think that's probably an idealistic, hopeful view of the world; I think however that the view you share with others is not always the view that needs to prevail.

1030

There are differences in our society, and I think we're beginning to understand that with the service providers. Not all of them share your view of the world. Not all of them think the service they're providing ought to be provided in a different fashion. I think that at the end of the day it's unacceptable, because there wasn't an open, consultative process to determine that we were shifting to delink services from housing and just where these rehab centres fit in in terms of that continuum of care that needs to be provided in some of those difficult areas. Where do they fit in? I get repeated phone calls from many of these service providers who didn't understand this.

I think that if we had not asked the Ministry of Health and the Ministry of Community and Social Services to appear before us, that would have been something we all would have overlooked. I think yesterday's meetings were quite instructive and put things in perspective, at least for me, in understanding where this bill would actually lead.

We are dealing with a number of items that I think we can address by amendment. I think we can approve the legislation with respect to accessory apartments. However, we cannot accept doing away with the planning process, which has always been the role for municipalities to follow, doing away with that completely. Just by waving a magic wand and saying that accessory apartments are now going to exist as of right legally and they will suddenly become safe places to live is simply not going to happen. There are many more steps that need to be taken to ensure that those are safe places to live.

Municipalities have to be able to inspect these units, and first of all, they have to know that they exist and where they exist. They have to have right of entry. It's not good enough for them to seek a warrant. That's a lengthy process. They need to know that these units exist and where they exist, and that's not contemplated in Bill 120.

Just to conclude, let me say that once again I would reiterate my support for the thrust of Dr Lightman's recommendations. I want to commend the government in this respect, that it has taken the initiative to bring forward legislation. You deserve some measure of credit for that. But I implore you to look at the serious concerns that have been expressed by the presenters who took the time to come before us, and those other presenters who did not have the time to come before us or who were not granted time to come before us because we simply could not accommodate them.

The overwhelming evidence that was before us expressed the view that there had to be changes made to

this legislation. That this was absolutely critical. I'm not convinced that the amendments we have seen today address those concerns and will make this legislation workable.

I would also reiterate our frustration at having to deal with these two pieces of legislation in an omnibus bill. I think that is completely undemocratic. It makes a mockery of the process that we follow in this Legislature, one that attempts to examine legislation that is critical, that impacts on all the people of the province, with the appropriate time and effort that go into doing this.

There were some 235 requests. That may have even grown from the time it was cut off. We accommodated something less than that. It just goes to show what kind of interest there was across the province with regard to this legislation, how far-reaching it was and how much of an impact this legislation would have.

At the end of the day, after almost four years of this administration, I can only describe what you're doing as coercive Utopianism. That's not to be taken offensively; it's just something I use to understand what it is that you attempt to do. Quite frankly, it's the only way that I can understand your approach.

Minister, there is still time to deal with these matters in a serious fashion. As I heard from members of the government side, there are areas we can work together on. I think we can make changes to this legislation so that it would work in the interests of all the people of the province.

**Mrs Marland:** May I just ask a question on process before I make my comments?

**The Chair (Mr Michael A. Brown):** You certainly may.

**Mrs Marland:** If all the amendments that are in the package which has been presented to the committee to be dealt with this week are not completed by Thursday at 5 o'clock, will we continue dealing with those amendments in the weekly meetings of general government when the House resumes?

**The Chair:** As you know, the committee works under motion from the Legislature. We have been instructed this week to conduct clause-by-clause review. I would understand that if for some reason that is not completed this week, then the subcommittee will have to meet and order the business at that time for the new session. I believe this is the only piece of legislation before the committee, so it may be safe to assume—although that may be a little bit of a strong statement, because you should never assume anything in this business—that the committee will continue to work on this bill if it does not finish clause-by-clause on Thursday of this week.

**Mrs Marland:** Thank you.

I welcome this opportunity today to outline not only some of the concerns of the Progressive Conservative caucus with respect to Bill 120, but also some serious issues that were brought up yesterday before this committee and I feel were not adequately addressed by the ministry officials present yesterday.

To begin with the process, Mr Johnson and I feel that the three days that have been allotted to clause-by-clause



consideration of this controversial bill are far from satisfactory. With the exception of the members opposite, I'm sure most people present and most who have made deputations would agree wholeheartedly that there is simply insufficient time.

The discussions we have all been party to both during public hearings and with Ministry of Health and Ministry of Community and Social Services representatives yesterday have proven nothing if not to point out the wide spectrum of opinion on this legislation. Just looking at the list of deponents is enough to illustrate this point.

Very few submissions spoke with authority to both parts of the bill. I think all will agree there are two very distinct components of Bill 120. They spoke to either the care home or the accessory or as-of-right sections. The concerns in regard to each part are very different and the amount of time allotted to this legislation is woefully inadequate to deal with the separate but very important interests.

When we questioned the minister before the committee hearings began and asked her to split the bill into two distinct components, she informed us that both parts had to do with residents' rights; therefore, the legislation was properly linked together. Well, graduated licensing and photo-radar were both highway safety issues, according to her caucus, but they knew enough not to link them in one omnibus bill.

1040

I will now turn my attention to some problems at hand, ones that we tried to deal with yesterday but I feel still need some clarification.

We heard yesterday from officials with the ministries of Health and Community and Social Services. Obviously, one problem we spent considerable time on was the question of the six-month average stay for exemption purposes. May I add that much of the reason we were with the Ministry of Health for so long yesterday was that no one bothered to inform us—for that matter, it appears, the Ministry of Health included—that an amendment addressing that issue had been slipped into the government motions yesterday morning. Since some members opposite were so distressed with the amount of time taken with that point yesterday, may we suggest that they could have saved time had they either informed us or the ministry officials of the motion they planned to introduce.

The Health representatives yesterday stated that the Landlord and Tenant Act will not cause major problems for any of the care homes covered under the bill, that in fact it can only help the residents, because it will give them security of tenure.

I have two points to raise on that. What happens when a resident causing problems for other tenants, either by being abusive or refusing to accept medication and being very disruptive to everyone's peace of mind, refuses to discuss problems with the Ministry of Health officials, a crisis response team or any other problem-solving mechanism that the ministry cares to throw their way?

We certainly have in our briefs lists of rules for the operation of a number of these various facilities that

came before us, and when you look at the kinds of rules that are necessary for those homes to operate, it makes this particular example very significant.

The Ecuhome Corp, for example, has a whole page on precautions when dealing with blood and other body fluids. Now, that has to be a very serious, very significant list of rules in a communal setting for adults living together. They're talking about what to do when hands have likely come in contact with somebody else's blood or body fluids and handling soiled items that have blood and body fluids on them. If somebody decides that they don't want to bother with that, obviously the whole safety of that community becomes at risk.

The same thing with their house agreement, which talks particularly about drinking, smoking, garbage and other things. With drinking, for example, if that is a rehabilitative program for people who have been alcoholics and they're trying to get over it and one individual decides he's not going to stay on the program and he's going to be drinking in that facility, how disruptive do you think that is to the other residents?

If you look at a communal living situation, and you have to look at what is best for the majority of people who are receiving that form of therapy and treatment, then you have to understand that house rules in terms of health are absolutely paramount to the safety of the people who live there. If you have one resident who refuses to comply with those house rules in that kind of communal setting, then obviously everybody is at risk. That really concerns me greatly.

The Landlord and Tenant Act gives that person the right to refuse intervention by anyone, except perhaps the police. Well, I'm sure the police have time to get involved because somebody isn't obeying those critical house rules; they don't have time. They don't have the manpower to decide that 10 or 12 people living together, and there's one person who is putting them all at risk because they're not adhering to the rules, particularly regarding cleanliness and the hazard of handling body fluids and blood—at one time this wouldn't have been a problem. People weren't at risk with HIV and AIDS. The fact is that today everybody is at risk and everybody has to take precautions.

The very Ministry of Health officials who were here yesterday saying that this bill was just great are the very people who set out rules for the protection of the general public in terms of the operation of hospitals and ambulance services and anyone who is at risk with body fluids or blood, and yet they're saying that if there's an individual who doesn't wish to comply under the Landlord and Tenant Act now, it's okay for them to stay in that communal living environment. I don't think the repercussions of that kind of example have really been considered by the ministry, particularly the Ministry of Health.

The protection of the Landlord and Tenant Act takes away the right of the landlord to rid the premises immediately of this threat, whether real or perceived. The ministry officials said yesterday that rehabilitation and treatment could be hampered if the threat of eviction was always over a tenant's head. Well, what about the threat

of infection and contact through blood or body fluids with AIDS? I wonder which would be a greater detriment to your rehabilitation if you had that risk over your head.

Do they believe rehabilitation or even the enjoyment of everyday life is not hampered when they have a disruptive influence that they cannot rid themselves of except by leaving those premises themselves? Where are the rights of the community versus the individual? There is a way of considering both, and this legislation obviously is not the way.

The second point is one we discussed yesterday as well. Security of tenure does not necessarily lead to security of care. I would have thought that this would have been of greater concern to the health officials than the question of tenure.

I don't think the Minister of Housing was here when Ms Jessica Hill made her presentation to the committee yesterday, but I can tell you that I'm sure that if the Minister of Health, Ruth Grier, were here and heard her acting assistant deputy minister of the newly created mental health programs and services area in the Ministry of Health say, "Care should not be a prerequisite to obtaining accommodation or a factor in continuing a tenancy"—that's the Minister of Health's newly acting assistant deputy minister who says that care should not be a factor in continuing a tenancy.

Does she really believe that? Does she really believe that no matter what the care is, they should continue living in a certain facility with certain conditions?

It's absolute garbage. It's so contradictory to what you would expect to come from the Ministry of Health. The Minister of Housing has different responsibilities and I respect that, but these are things that the Ministry of Health representatives were here saying yesterday. She even went on to say:

"Many of the seriously...ill residing in supportive housing programs have been discharged from the psychiatric facilities or inpatient units of general hospitals. Most of this population has had repeated stays within the psychiatric hospital system and living in supportive housing programs affords them the opportunity to live as full participants in the community."

Of course it does, and isn't that in itself an argument for a longer stay?

1050

You see, there are just so many contradictions. There's an argument for a certain kind of program, a certain kind of treatment, and you cannot make that program or that treatment arbitrarily tie in with a time factor. The people from the Massey Centre have told us that certainly some of their clients are short-term, but some of them are up to three and a half years. Are you saying because a person needs three and a half years they're not going to get it? What a waste of money in the first two years then. Maybe the success of their recovery happens in the last year or six months of their stay.

Whatever it is, if they have those needs, their needs must be met. We're talking about the most vulnerable people in our society and I absolutely hate something that is so two-faced that it ends up that it just plays with

people's lives and people's futures. If we're talking about security of care, we'd better make that as important as security of tenancy and we'd better make it as important for everybody who lives in one of those facilities.

I would also like to briefly discuss the Ministry of Community and Social Services presentation of yesterday. Here we have a government ministry that not more than a year ago went to bat legally to allow Ecuhome, a care service provider, the right to remain exempt from the Landlord and Tenant Act; I mean, it wasn't even another government. I don't know what this government is doing to our bureaucracy, but I can't see that a bureaucracy which in 1989 believed so much in a program that under the former minister, John Sweeney, it set up this program, signed this new contract with Ecuhome, issued a press release—it was a celebration, and so it should have been. It was a program that was needed. Now the same ministry, with staff who may or may not have been part of the original decision, is going to kill that program.

Yesterday, not only did this ministry support Bill 120, which places Ecuhome under its regulatory powers; the representatives who were here yesterday knew nothing of their own ministry's commitment to Ecuhome, a \$1.5-million-per-year commitment, I might add. Can you really believe they didn't know anything about it? Or were they told not to acknowledge anything about it? That's up to somebody else to decide. I will draw my own conclusions. But I think it's sad when staff are put in that kind of position.

I would prefer it if they came and said: "We've changed the policy. We've changed the approach. This is what we're going to do now. We don't believe that program needed an exemption from the Landlord and Tenant Act a year ago." Why don't they come out and say stuff like that? At least they would have some individual credibility if that had been the case. Frankly, I wouldn't have known about the \$1.5-million commitment either, except that I was able to dig up a press release on that matter issued by that very ministry.

On top of that little conundrum, the officials, when asked to list the care providers they stated had no problems working under the Landlord and Tenant Act, could not come up with one of which they were sure. They sat here and said, "There are other providers who have no problems," and yet when I asked them directly to name some, isn't it interesting that the very people who are responsible for this kind of program could not. No wonder we're upset. I would think that at the very least, the government members must be confused about what's going on in their own ministry.

Given these examples, does this really sound like a piece of legislation about which everyone is thrilled? I don't believe so. Our party has stated, time and time again, its opposition to the former Bill 90, now the as-of-right apartments in this new Bill 120. I will not go over that part at this point again; I will have ample time to comment on that section when we get to it. But we would like to point out one more time the dangers in taking away the rights of municipalities to do their own planning.

The local politicians, who are also elected, I might



remind you, know their municipalities. They study the infrastructure, they plan the infrastructure and they sure as heck pay for it. They plan the towns and cities according to that known capacity. Bill 120 takes away the right to do so and imposes a province-wide plan on areas that may not be able to handle it. Such an irony when regional governments were set up to do that very thing: They were given the mandate to plan communities.

If the province is really going to take, by erosion, one piece at a time of the planning responsibility away from municipalities, it might as well say, "We're going to do the whole thing and dispose of regional government." You could certainly save billions of taxpayers' dollars in this province if Big Brother provincial government is going to tell the area and regional municipalities how to plan and how to provide hard services. Of course, we've heard about the fact that the province is thinking of taking over the responsibility for roads and sewer construction and leaving the social services with the—

**Hon Ms Gigantes:** That's right, yes.

**Mrs Marland:** No, actually it's the other way, isn't it? They're going to take over the social services. Whatever the responsibility of the province is, if it comes out and changes the structure that exists, fine, but don't leave the cost of the structure there in terms of regional government.

Most large municipalities in this province have planning departments. Every regional municipality has a planning department. Why have the duplication? Why have such a tremendous cost burden to the taxpayers? Bill 120 takes away the right from municipalities to do that planning and imposes a province-wide plan on areas that may not be able to handle their plans.

The Ministry of Housing refers to as-of-right apartments as small, accessory units. They say they will probably house single people or, at the most, young couples. "As of right" is defined nowhere in the legislation as a small, one-person residential unit. That isn't what the legislation says. If that's what you want, have it in the legislation.

Unscrupulous landlords and the NDP have told us—I want to emphasize I'm not saying "unscrupulous NDP" in this. I'll reword this so I don't upset my colleagues, because I don't believe that.

**Mr George Dadamo (Windsor-Sandwich):** Very nice of you, Margaret.

**Mrs Marland:** But I think we know there are unscrupulous landlords. Unscrupulous landlords, and the NDP has told us enough about them, can in effect divide a house or even a town house complex into twice the amount of residential units. One extra person may not be a strain on the infrastructure, but double the amount of families may be.

Nor does Bill 120 legislate safety. There is no mechanism within the legislation for mandatory inspection to ensure that the apartment is safe. Once it's legal, it's legal. But who will be liable when the apartment proves unsafe? We're certainly finding that out right now with the coroner's inquest that's taking place in my municipality.

**Mr Stephen Owens (Scarborough Centre):** And

what did the mayor do about that?

**Mrs Marland:** The Progressive Conservative Party has many more concerns regarding this controversial legislation. We hope that we are given the chance to address them adequately during the next few days of clause-by-clause consideration.

**The Chair:** I think perhaps we're ready to begin the clause-by-clause examination. I will call subsection 1(1), Mr Johnson.

1100

**Mr David Johnson (Don Mills):** I just have a few general motions that I would like to make if it's appropriate at this time.

**The Chair:** If you have a motion, you may put a motion. That's always in order.

**Mr David Johnson:** I put a motion requesting a report from the Ministry of Housing to this general government committee, and I would expect the report before we complete this week—I would hope that's possible—regarding "a consultation process which fully involves the municipalities to develop the regulations pertaining to Bill 120 as requested by the Association of Municipalities of Ontario."

Mr Chair, they have requested that the consultation process pertaining to the regulations fully involve AMO.

**The Chair:** Do I have a copy of your exact motion, Mr Johnson?

**Mr David Johnson:** Yes, you can have it right here. I've scribbled it down. That's the first part. The second part is the same ministry, same timing, regarding municipal liability.

**The Chair:** We'll have to deal with one motion at a time. Is it the same motion with different sections? The Chair is having some difficulty.

**Mr David Johnson:** The motion requests a series of reports, five reports to be specific, from the Ministry of Housing. It's all the same ministry. They're all reports. I would like them all back by the end of this week. It's information that should be readily available, I would think.

**The Chair:** Perhaps you could just read the motion so that I understand. Then we can make the arguments about the motion after we know what the motion is.

**Hon Ms Gigantes:** Could we see a copy of the motion?

**The Chair:** As soon as it's moved clearly.

**Mr David Johnson:** You can see a copy of it right here.

**Hon Ms Gigantes:** I'm not prepared to vote on it until I see a copy of it.

**Mr David Johnson:** It simply requests a report. It only requests information.

**The Chair:** Well, just make the motion precisely.

**Mr David Johnson:** The motion, then, is that I request a report from the Ministry of Housing to the general government committee before the end of this week regarding:

"(1) a consultation process which fully involves the

municipalities to develop the regulations pertaining to Bill 120 as requested by the Association of Municipalities of Ontario;

“(2) municipal liability pertaining to Bill 120 as outlined in the response of the Association of Municipalities of Ontario to Bill 120;

“(3) the status and the proposed implementation schedule of the fire code regulations;

“(4) changing the Assessment Act to have houses containing an accessory apartment assessed as a duplex as outlined in the presentation of the mayor of Scarborough;

“(5) the danger of radon gas accumulation in basement apartments and the linkage of this gas to a greater incidence of lung cancer as noted in the presentation of the mayor of Scarborough.”

That, I might note, has been requested by a number of people.

**The Chair:** If we could have a copy of that, the clerk will get it and circulate it to the members. Now, the reason for the motion, Mr Johnson.

**Mr David Johnson:** The reason is that as we proceed with Bill 120, and particularly these pertaining to the accessory unit section of Bill 120, there are a number of questions. I'm sure the members of the committee have heard these questions, particularly from the Association of Municipalities of Ontario and many of the municipalities.

I think perhaps the most serious question is the issue of municipal liability. Municipalities are concerned as to where they stand in the event, for example, that a large number of either tenants or landlords come forward seeking an inspection of an accessory unit. Municipalities have very limited staff at this point in time. Municipalities are operating under the burden of the social contract, under the burden of the expenditure control program and apparently under the burden, as I understand it in a recent announcement, of a further 3% cutback this year, in 1994, in their grants from the province of Ontario.

We heard the fire chief from the city of Mississauga indicate in his presentation that it would take 87 person-years, in his estimation, to inspect each and every basement apartment in the city of Mississauga. To do that, for example, in the course of a year would require, obviously, 87 fire inspectors. I believe his message and the message of the mayor of Mississauga, speaking on behalf of that one out of many municipalities, was that this was unreasonable to expect, that they simply couldn't inspect all of the basement apartments.

Then the question becomes, what is the liability if there is a flood of these coming to the municipality for inspection and the municipality because of fiscal constraints, many of which have been imposed by the provincial government in terms of grant reductions, is unable to do the inspection, and a fire, heaven forbid, occurs or some problem occurs? What is the liability of the municipality? That's what AMO is asking. AMO has approached the ministry and has asked for clarification of that matter. They have not had that clarification. I think as we proceed this week that surely the ministry should

give some kind of response to municipalities as to where they stand in that event.

The ministry might also comment with regard to those units that do not come forward and do not ask for an inspection, but are apparently made legal under this bill. Does the municipality assume any liability for them? In other words, is there any expectation that the municipality will be proactive and will be required to go out and somehow bring up to standards those apartments that have not volunteered to have an inspection.

Those are very important issues and I think before we vote on Bill 120, we should know the answers to those questions, and the municipalities would like to know the answers to those questions. That's sort of the first part.

The second part or another part deals with the regulations. The regulations are going to be important to the municipalities. For example, I think Scarborough has noted what might be reasonable grounds for entry into an apartment to do an inspection, and it would like to work with the ministry in terms of determining those regulations.

What they're requesting is that the regulations not be developed in isolation of the municipalities but there be some process set forward, some consultation process, so that the province will work with the municipalities in a joint venture to determine the regulations that make sense.

They are very much concerned that these regulations will be without that kind of consultation and consequently perhaps designed in a way that will not be to the maximum benefit of the province and the municipalities and the people who inhabit the basement apartments. It's simply asking that the ministry outline what the public consultation process will be for the regulations, and I think that's valid.

The next one, although the clerk has my motion there now, I'm just trying to recall, but I think the next one had to do with assessing.

**Mr Owens:** Did you just want to repeat it? I didn't get a written version of the motion.

**Mr David Johnson:** You'll get a copy, don't worry. You'll be well looked after.

**Hon Ms Gigantes:** On a point of order, Mr Chair: Do we have copies of this motion now?

**The Chair:** It has now appeared.

**Mr David Johnson:** It starts about one third down the page. It goes down the bottom of the page and then comes around to the top.

**Hon Ms Gigantes:** Mr Chair, this is not an acceptable written form for a motion, it really is not. It's not possible to read this and make sense of it.

**Mr David Johnson:** It doesn't live up to the expectations of the minister. I would hope the minister would be more concerned—

**Hon Ms Gigantes:** Mr Chair, on a point of order: Could we please table this—

**Mr David Johnson:** —if the information that's being requested—

**Hon Ms Gigantes:** I believe I have been granted the



right to raise a point of order.

**The Chair:** Point of order, the minister.

**Hon Ms Gigantes:** Could we at least table this matter until we can get something we can read in front of us and cut the discussion on it right now until we can get something we can read in front of us?

**The Chair:** The members are having some difficulty reading Mr Johnson's motion?

**Mr David Johnson:** What's the matter with you guys? Be a little more interested in—

*Interjections.*

**The Chair:** Order. We will recess until 22 minutes after 11 while we get a formal copy of Mr Johnson's motion.

*The committee recessed from 1111 to 1124.*

**The Chair:** The committee will come to order. Mr Johnson has not returned with his motion yet. In the meantime, the minister tells me that she has a clarification of wording regarding section 2.1 that the members may be interested in. This is just a point of information.

**Hon Ms Gigantes:** Exactly, Mr Chair. What I'd like to draw to the attention of members of the committee is the circulation of new wording for the amendment which has been proposed by the government to section 2.1 that deals with the term of an agreed period of therapy or rehabilitation.

**Mrs Marland:** Is this in the other one?

**Hon Ms Gigantes:** No. This has just been circulated. Perhaps the clerk could help us identify exactly which piece he has circulated. It doesn't indicate any change, and this is going to lead to confusion. I'd ask the clerk to make sure that each member feels satisfied that he or she now has the new wording.

**The Chair:** Perhaps the easier thing to do would be to read it out.

**Hon Ms Gigantes:** I will read it. It now reads:

"I move that the bill be amended by adding the following section:

"2.1 Subsection 110(3) of the act"—that's the Landlord and Tenant Act—"is amended by striking out 'or' at the end of clause (d), by adding 'or' at the end of clause (e) and by adding the following clause," and here is where you will find the change in wording from the motion which was tabled yesterday:

"(f) the accommodation was occupied solely for the purpose of receiving rehabilitative or therapeutic services agreed upon by the tenant and landlord, no other tenant of the building in which the accommodation is located occupying the accommodation solely for the purpose of receiving rehabilitative or therapeutic services is permitted to live there for longer than two years, and the period of tenancy agreed to has expired."

This is to make very clear that what the amendment is addressing is a program in which all the people involved are not permitted to stay in the program for longer than two years.

**The Chair:** I just will ask members if they are all satisfied that they have a copy of the new amendment

that the government will be proposing. Fine. We will then revert to Mr Johnson, who had the floor and was speaking to his motion, which all members now have in front of them.

**Mr David Johnson:** Mr Chairman, can I seek your advice then? I have now in the proper form, I suspect, the motion. I've already spoken to items 1 and 2, I believe, of the motion that you have before you. What I'm asking for simply is a report. I hope that's not put in the category of a heinous crime to simply have a report on questions that have been raised, largely by the Association of Municipalities of Ontario.

The report can simply indicate, for example in the case of municipal liability, that we don't know what the municipal liability is or we know what the municipal liability is and it's not this or whatever the fact of the situation is pertaining to the municipal liability. But the municipalities would like some guidance in that regard so they know what they're up against.

In terms of the regulations, again if there's no proposed process involving the municipalities to be involved in the formulation of the regulations, then simply say that. That's not a very complicated report, but people are asking how this is going to work. If there is indeed a process that's being developed, then I'm simply asking that it be noted so the municipalities will have some idea as to where they stand.

They're also quite interested in item 3 of the motion, which is the fire code regulations. Of course, many of the fire chiefs alluded to that, Chief Hare being one of them, the fire chief from the city of Scarborough being another one. A number of fire chiefs who were before us wondered what the status is and when the new fire code regulations would be implemented. I'm asking for that information before this committee.

Item 4 is to ask for a report on the possibility of changing the Assessment Act, because many municipalities have said that having two units in a house will require services—services pertaining to education, services pertaining to recreation, waste disposal, you name it. There will be more services required, and most municipalities in fact have said they're not opposed to accessory apartments, but there are conditions that they feel should be in place. Some of them have mentioned the fact that they think it would be more fair if the Assessment Act was changed such that the house would be assessed as a duplex. That would presumably generate a little bit of extra revenue which would help to offset the costs of the extra services for education, for recreation, for waste disposal etc.

I'm simply asking that the ministry report on that prospect, whether the ministry contemplates that or whether the ministry is opposed to that or whether that's a possibility or not.

Item 5 is one that was only referred to once, I think, in the various presentations, but I've heard it on at least one other occasion, and this has to do with the incidence of radon gas in basement apartments. Specifically, it was noted in the brief from the mayor of Scarborough, but there is increasing concern with regard to radon gas accumulation in basement apartments. I think there was

a study done in Norway which has linked this to a greater incidence of lung cancer.

1130

I'm simply asking, since it was noted in one of the presentations, that whatever information the Ministry of Housing has in that regard, they make us aware of information with regard to radon gas and the linkage to lung cancer. I'm only asking for reports here; just information, Mr Chairman, to help us at the end of the day make our decision on this issue. That's the essence of my motion.

**Mr Cordiano:** I believe that if what we're asking for are reports, then it would add certainly to the existing information that we've accumulated on committee up to the present time. I think there are some legitimate concerns revolving around what might be the process that's followed for developing regulations as there are some practical implementation problems around accessory apartments and the role that municipalities will play.

I think as well, with respect to questions revolving around liability, I've expressed repeatedly our concerns with the fact that simply by legalizing basement apartments or accessory apartments as of right does not make them safe places to live. In fact Bill 120 is lacking in its approach when it fails to direct municipalities or to give them the right to inspect these units to ensure that they are safe places to live.

I think to the extent that we are—well, if no one's listening, I suppose it really doesn't matter because the intent is not to listen to what we would think is appropriate.

**Mr Gary Wilson (Kingston and The Islands):** Well, say something.

**Mr Cordiano:** With comments like that it really—

**The Chair:** Order.

**Mr Cordiano:** I think, Mr Chairman, there is an effort on our part to be open and direct with the members of the government side as to what our intentions are. I'm not holding anything back. I think it's quite clear that we disagree with some parts of this bill fundamentally. I've made that clear. I've made our position clear as to what we intend to do with those sections of the bill and I think to the extent that we are adding to our base of information, this would be an appropriate motion.

**The Chair:** Can I have Mr Daigeler, Mr White, Mr Owens and Mr Grandmaître?

**Mr Hans Daigeler (Nepean):** Just briefly, I always appreciate additional information. However, I feel that the time line is not quite reasonable, the provincial civil servants being busy with other matters. There's always third reading and before we make our final vote, I think it's useful to have that information, but to request that before this Thursday I don't think is quite fair and reasonable and I would recommend to Mr Johnson to take that out and leave the rest in place.

**Mr Drummond White (Durham Centre):** Similarly to Mr Daigeler, my concern was not with the many points in the resolution but rather with the time line and the fullness of the request, a report about a consultation process etc, of planning. These things, I think, will

require to be done properly with much more than two days.

For example, in two days the issue of the radon gas, which may be something of some real significance, I'm not sure it could be done justice in that period of time, nor is the Ministry of Housing staff necessarily equipped to deal with that very problematical issue. I'm sure Mr Owens would be able to comment on that as well.

The first three items seem appropriate but I'm not sure about the time line. As well, are we looking at an expressed intent on the behalf of the ministry or a complete report and time line and schedule of activities, which is a little problematical for even a couple of months?

**Mr Owens:** My comments are straightforward and succinct. I move that the question now be put.

**Mrs Marland:** Are you going to cut off any further discussion?

**Mr Bernard Grandmaître (Ottawa East):** You've done what?

**Mr Owens:** I've put a motion on the floor.

**The Chair:** Mr Owens has moved that the question now be put.

**Mrs Marland:** This is great. No further discussion. Let's cut off the debate.

**The Chair:** Mr Owens, I still have two members on the list. I will rule that out of order at this point.

**Hon Ms Gigantes:** Putting the question is always in order, Mr Chair.

**Mr Owens:** On a point of order, Mr Chair: In terms of the motion, and I'll say this quite respectfully, the motion that the member has put forward is, first of all, very straightforward. I don't think it requires a great deal of debate.

**The Chair:** You cannot debate the Chair's ruling.

**Mr Owens:** In terms of the number of people on the speakers' list—

**The Chair:** If you're debating the Chair's ruling—

**Mr Owens:** —I'm not sure that's germane. Three parties have had an opportunity to comment.

**The Chair:** Mr Grandmaître. Oh, a point of order for Mr Cordiano.

**Mr Cordiano:** I agree with the Chair. The ruling of the Chair cannot be debated. If you want to challenge the Chair, then please go ahead and challenge the Chair.

**Mr Grandmaître:** Thank you, Mr Chair.

**Mr Cordiano:** We're attempting to deal with the matter—

**The Chair:** Order.

**Mr Grandmaître:** I'll be very short.

**Mr Cordiano:** Go ahead and challenge on it, if that's your attitude.

**Mr Grandmaître:** On the mover's first point, the consultation process, I think it's very, very important that municipalities should be involved with the ministry to write regulations. You need the input of municipalities because, as you know, Madam Minister, municipalities



will be gaining—if I can use the word “gaining”—more responsibilities, and I think it’s only fair that you could say yes and that’s it. You don’t need a report on it but just simply say yes, municipalities will be involved in the development of the regulations, period.

On the fourth point, I’d like to ask the mover, why would you need a change in the Assessment Act? At the present time municipalities, once a year, do send a list of the additional units in their municipalities to the Ministry of Revenue asking it to update their assessment. Why would we need a change or an amendment to the Assessment Act? Maybe there’s something I don’t know. What is it?

**Mr David Johnson:** If I’m then allowed to respond to a question that’s directed to me—

**The Chair:** You may respond.

**Mr David Johnson:** —my understanding, which I wouldn’t profess to be 100% either, so I’m really raising a flag here, is that the house which would accommodate an accessory apartment would be assessed as one house, whereas, for example, if a house is zoned in the first instance as a duplex, then both units are assessed separately and individually and the sum of the two assessments in a duplex would be more than the assessment that you would expect to get from an individual house that has an accessory apartment. That’s my understanding. That’s the information that has filtered my way via municipalities.

If I’m wrong in that, then the report is a very simple one and I guess no action is required. But certainly I have heard that message from municipalities, that to in fact get these two units assessed as if they are independent units would require some sort of change, probably in the Assessment Act.

1140

**The Chair:** Your question’s been asked. We’ll move on to Mrs Marland.

**Mrs Marland:** You’re finished, Mr Grandmaître?

**Mr Grandmaître:** Yes.

**Mrs Marland:** I think there are three questions here that if the minister were willing to respond fairly quickly, it’s not a time problem at all. I’m sure a phone call to the Ontario fire marshal will answer number 3. That’s not a big-deal report; it’s just a status of where we are with the fire code regulations. I think some three weeks ago, as members of this committee, we did receive a draft of the fire code updating from the fire marshal.

There actually has already been an answer to the question of the Assessment Act, and that obviously isn’t this minister’s responsibility. But I asked this minister in the House if she would recommend changing the Assessment Act and she said no, as I recall. If that’s still the position, I think you could say that again on the record today, Evelyn, and that’s the answer to that, unless the government hasn’t discussed it recently.

I think number 5, as the government members have said, is very important. It is information that we need. Maybe we can’t have number 5 by the 10th, but I really think what Mr Johnson is looking for here, especially in number 1, is a commitment to the Association of Municipalities of Ontario. It’s a straightforward question.

I would guess that 1, 2 and 3, the minister could answer on the record probably this morning without its being a report. Let me ask you, Madam Minister—

**The Chair:** We’re debating the motion.

**Mrs Marland:** I am debating it, but I’m asking, would the minister be prepared to give us an answer to any of these this morning on the record and would she be willing to give a commitment to number 1?

**Hon Ms Gigantes:** The motion calls for reports, and it calls for reports by Thursday, March 10, two days from now. On Thursday, March 10, this committee will be into clause-by-clause, if we ever get started. I don’t wish to see a process developed where we will have tabling of reports and then we will have a demand from members of the Conservative Party on this committee that we discuss all these reports.

As the member for Mississauga South has pointed out, much of this information has been available to committee members through the course of hearings, and materials which were prepared by the ministry for those hearings. There have been reports on each of these items and responses on each of these items, with the exception of number 5. Number 5 is an important exception because, as members on both sides have pointed out, this is a very large question which affects far more than items covered by Bill 120.

I would therefore suggest to the committee that we dismiss this motion, that we proceed with clause-by-clause, and at each stage where they feel we need to repeat information which has already been provided to the committee, we can do that.

**Mrs Marland:** I guess, Madam Minister, you didn’t want to answer my question and I guess we could ask the Minister of Finance about the Assessment Act. But your position is the same as when I asked you in the House, that you’re not going to recommend changing the Assessment Act?

**The Chair:** Why don’t we just speak to Mr Johnson’s motion rather than engage in a debate?

**Mrs Marland:** I’m trying to shorten the motion because everybody’s saying that it’s too much to ask for.

**The Chair:** If you wish to shorten the motion, you may make an amendment.

**Mrs Marland:** I can’t shorten it if the minister isn’t willing to answer my question.

**Mr Cordiano:** On a point of order, Mr Chair: I heard what the minister said and I think there is definitely—

**The Chair:** The point of order?

**Mr Cordiano:** The point of order is, the point that the minister’s making is that these items have been dealt with. I beg to differ with respect to number 1.

**The Chair:** That’s a point of view.

**Mr Cordiano:** There was no consultation process agreed to with municipalities over regulations.

**The Chair:** Mrs Marland.

*Interjection.*

**The Chair:** Thank you, Mr Cordiano.

**Mrs Marland:** The two that I said were the exception

to my request for an answer from the minister were 1 and 5. If the minister were willing to commit to number 1, we don't need a report. That's why I asked her if she would be willing to commit to a consultation process which fully involves the municipalities to develop the regulations.

It's simply saying will you talk to the municipalities when you start to develop the regulations pertaining to this bill, which is what AMO has asked. If the minister could say yes, she would commit to talking—a consultation process is what talking is about—if she would commit to that, we can take that out of this. I would move to take this out of this motion for a report. Would you commit to doing that, Madam Minister?

**Hon Ms Gigantes:** Absolutely, if you will take out that section. Certainly. My concern has been that we can have a debate on whether reports are satisfactory to members and that can preclude our ever dealing with the legislation, as members of the Conservative Party know full well.

My real desire here is that we begin to address the work which has been laid in front of this committee, which is a clause-by-clause examination of Bill 120, which we have not begun after many hours of sitting.

**Mr Owens:** And agreed to by the three House leaders.

**Mr Cordiano:** On a point of order, Mr Chair: It's inappropriate that the minister lecture this committee on what's appropriate to be dealt with on committee.

**The Chair:** That's not a point of order, Mr Cordiano.

**Mr Cordiano:** It is a point of order.

**The Chair:** No, it isn't. Mrs Marland.

**Mr Cordiano:** I think that you should respectfully submit to what the committee is undertaking because there are—

**The Chair:** Mr Cordiano.

**Mrs Marland:** So, Madam Minister, will you agree to a consultation process which fully involves the municipalities to develop the regulations pertaining to Bill 120 as requested by AMO?

**Hon Ms Gigantes:** I agree to that and I will say to you that we have had many discussions with AMO around such regulations already.

**Mrs Marland:** Good.

**Hon Ms Gigantes:** And we will have further discussions as we move to the finalization of such regulations.

**Mrs Marland:** Okay. That's excellent. I'm going to ask Mr Johnson if we can take number 1 out.

**Mr David Johnson:** We have the minister's agreement, so sure.

**Mrs Marland:** Okay. We'll take out number 1. Do you think, Madam Minister, through the Chair—

**The Chair:** Order. We just can't take things out. We need an amendment.

**Mrs Marland:** All right. I'll move an amendment to remove item 1 from this motion. Through the Chair, is it possible that the status and proposed implementation

schedule of the fire code regulations is something that the staff could have in two and a half days?

**Hon Ms Gigantes:** Absolutely.

**Mrs Marland:** Thank you. Then I would move that we—

**Hon Ms Gigantes:** But I am unwilling as minister to commit to having reports produced which are going to be debated as reports before this committee instead of the work to which all members agreed, which was to undertake clause-by-clause of Bill 120.

**Mrs Marland:** I hear you, Madam Minister, but the fact is I'm going to move that we take out item 3 because—

**The Chair:** We have to deal with the first amendment that you have moved.

**Mrs Marland:** All right. I move that we remove item 1 from this motion. Okay?

**The Chair:** All in favour?

**Mrs Marland:** All in favour of removing item 1 from this motion.

**The Chair:** All in favour of deleting item 1? Agreed.

**Mrs Marland:** For crying out loud, why wouldn't you be in favour of shortening it? You are such puppets, it's unbelievable.

**The Chair:** It's carried.

**Mrs Marland:** Carried, thank you. I have a commitment from the minister that we can get the answers to number 3 for Thursday. I also heard the minister say that she doesn't want that discussed and I think that's within the Chair's purview about what's discussed on Thursday, because actually we could discuss the old draft if we wanted to, but I'd rather have an up-to-date status and that's all we're asking for.

Having the commitment from the minister that we will have the status and the proposed implementation schedule of the fire code regulations, then I would move an amendment—

**Mr David Johnson:** Do we have that commitment from the minister?

**Mrs Marland:** Yes. The minister said yes, she would commit to it. The minister wants to answer, Mr Chair.

**Hon Ms Gigantes:** No, I won't repeat myself.

**The Chair:** You may continue, Mrs Marland.

1150

**Mr David Johnson:** Then I guess we have that commitment.

**Mrs Marland:** Yes. I don't think it's necessary—okay. Then my amendment is to remove item 3.

**The Chair:** Mrs Marland has moved that we delete item 3. All in favour? Carried.

**Mrs Marland:** Item 2, the municipal liability pertaining to Bill 120 as outlined in the response of AMO: Through the Chair to the minister, has that been looked at by your ministry?

**Hon Ms Gigantes:** Yes.

**Mrs Marland:** So would you be willing to share an answer on that question?



**Hon Ms Gigantes:** Absolutely. I'm just not willing to suggest to the Chair that he accept discussion of reports on Thursday as opposed to the work which was agreed to by members of this committee, which was to do clause-by-clause of Bill 120.

**Mrs Marland:** Can I ask, through the Chair, will you bring in number 2 by Thursday?

**Hon Ms Gigantes:** I've answered this already, Mr Chair.

**The Chair:** Go ahead, Mrs Marland.

**Mrs Marland:** No, I'm sorry, Evelyn, you weren't as clear on that as you were on the other two. I heard what you said—

**The Chair:** You may make an amendment if you wish, Mrs Marland, or just continue the discussion.

**Mrs Marland:** Okay. Madam Minister, when would you be willing to—

**The Chair:** This is not a time for a debate, Mrs Marland.

**Mrs Marland:** No, but how do we know how to vote on this? If the minister—and she is being cooperative on this. Why don't we eliminate some of this? If the minister would be—

**Mr Owens:** I don't know why Dave doesn't just withdraw it.

**Hon Ms Gigantes:** You could defeat the motion. That would eliminate it.

**Mrs Marland:** We've had a commitment from you.

*Interjection.*

**Hon Ms Gigantes:** If that's how you want to spend your time—

**The Chair:** Order. Mrs Marland has the floor.

**Mrs Marland:** Mr Chair, I would like to move to delete item 2, but I just need to know from the minister, if I do that, when will—

*Interjection.*

**Mrs Marland:** Mr Owens, I'm not asking you. Thank you. I'd like to know when we would get the answer to that question of municipal liability from the minister. She said they've discussed it. I'm just asking her, when would she be able to share that with this committee?

**Hon Ms Gigantes:** Mr Chair, there is no problem producing any of this material. My single and only point is to indicate my very strong recommendation to you as Chair that we not enter into a process which will produce reports on Thursday, which will then become the subject of discussion about whether they are adequate reports, as opposed to the work which we have agreed to as a committee, which is to deal with the bill which is before us, Bill 120, clause by clause and report to the House.

**The Chair:** I may be able to put the minister's mind at ease in regard to that, in that there is really no—the ministry may produce the report but that does not make it debatable. We will be dealing with clause-by-clause.

**Hon Ms Gigantes:** When?

**The Chair:** We are actually right now.

**Hon Ms Gigantes:** No, we're not right now, Mr

Chair. In fairness, we are not dealing with clause-by-clause now. We have not begun clause-by-clause and we've spent several hours in the committee in time which was allocated to clause-by-clause consideration of the bill.

**The Chair:** The Chair was just trying to inform the minister that the reports may be tabled with the committee but there is not an opportunity to debate the reports.

**Mrs Marland:** Mr Chair, I would assume that satisfies the minister's concern, what you've just said. I heard the minister say, in answer to my question, that there's no problem presenting these reports, so in that case I would delete item 2 from this motion.

**The Chair:** You move that item 2 be deleted?

**Mrs Marland:** Right.

**The Chair:** Mrs Marland has moved that item 2 be deleted. All in favour? Carried.

**Mrs Marland:** So now that we've deleted 1, 2 and 3, it remains as to whether or not the government members are interested in item 5.

**Hon Ms Gigantes:** No, 4.

**Mrs Marland:** That's right, 4 and 5. For that reason, I'd move that 4 and 5 be split in the vote. I think that there would be members who would be interested in the radon gas question and might support the motion on that but may not support the motion on the Assessment Act because their government's already taken a position on the Assessment Act.

**The Chair:** I'm not sure procedurally how we would accomplish that, Mrs Marland. We have a motion including two sections.

**Mrs Marland:** I'm moving a motion that we split those items 4 and 5. That's in order.

**The Chair:** No, you would have to delete one of them and we could deal with it separately.

**Mrs Marland:** No, I'm moving that we vote on them separately, and that is in order.

**Hon Ms Gigantes:** It is.

**The Chair:** Yes, all right, I understand. Fine.

**Mrs Marland:** So I move that we vote on 4.

**The Chair:** We have to complete the debate on the motion before we vote.

**Mrs Marland:** Oh, that's right.

**The Chair:** Unless you're suggesting that the question now be put.

**Mrs Marland:** No, I'm finished my—

**The Chair:** Mr Owens?

**Mr Owens:** I move that the question now be put.

**Mr David Johnson:** Just one more point—

**The Chair:** No, Mr Owens has moved the question now be put. I believe that would be in order, given that we've had more than adequate discussion.

**Mr David Johnson:** On a point of order, Mr Chair: There has been talk about the date. I'm prepared to amend the date of the report for item 5.

**The Chair:** That's not a point of order, Mr Johnson, unfortunately. We will deal with the motion—

**Mr David Johnson:** What a process. This is unbelievable.

**Mr Gary Wilson:** That's what we think too.

**The Chair:** I'm trying to put the question. We have a motion from Mr Johnson before the committee. I believe all members have it. We are dealing only with sections 4 and 5. Amendments have deleted the first three.

*Interjection.*

**The Chair:** Oh, I'm sorry. All in favour of Mr Owens's motion that the question now be put? Opposed? Mr Owens's motion is carried.

Now we will deal with Mr Johnson's motions 4 and 5.

**Mrs Marland:** I'd like a recorded vote on 4 and 5, and they are being voted on separately.

**The Chair:** I will put them separately. All in favour of section 4 of Mr Johnson's motion? A recorded vote.

**Ayes**

Cordiano, Grandmaître, Johnson (Don Mills), Marland.

**The Chair:** Those opposed?

**Nays**

Dadamo, Mammoliti, Owens, Wessenger, White, Wilson (Kingston and The Islands).

**The Chair:** Number 4 is defeated.

**Mrs Marland:** Now we'll find out who's interested in putting people in basement apartments.

**The Chair:** All in favour of part 5 of Mr Johnson's motion?

**Ayes**

Cordiano, Grandmaître, Johnson (Don Mills), Marland.

**The Chair:** All those opposed?

**Nays**

Dadamo, Mammoliti, Owens, Wessenger, White, Wilson (Kingston and The Islands).

**The Chair:** It is lost and the motion is lost.

Now, subsection 1(1).

**Mr Cordiano:** Mr Chairman, it's 12 o'clock. I have other commitments.

**The Chair:** It being 12 of the clock, the committee will reconvene at 2 o'clock this afternoon.

*The committee recessed from 1159 to 1407.*

**The Chair:** The standing committee on general government will come to order. The purpose of the committee meeting this afternoon is to examine Bill 120 clause by clause. As members will recall, this morning we started section 1.

**Mr Grandmaître:** Did we?

**The Chair:** Yes, we did. Do I have questions, comments or amendments to subsection 1(1)? Mr Cordiano, I believe you have an amendment to subsection 1(1).

**Mr Cordiano:** I certainly do.

I move that clause (b) of the definition of "care services," as set out in subsection 1(1) of the bill, be amended by inserting after "rehabilitative," "respite, convalescent care."

I think it's important to include this because it

addresses the concerns of a variety of rest and retirement home operators. Actually, the whole industry expressed a concern around their ability to continue to provide convalescent care and respite care in their facilities, and I don't believe we have addressed this. However, I think adding these two definitions along with "care services" makes it crystal-clear what we're referring to in terms of respite and convalescent care. That's why I have included that in the definition clause.

**Hon Ms Gigantes:** I appreciate Mr Cordiano concern to make sure we're thinking of all the kinds of care and that the legislation reflects our intent with respect to all the kinds of care that can be provided in residential settings. However, this amendment would have the unintended effect of applying provision of the Landlord and Tenant Act to types of care that I suspect he would not want to see the Landlord and Tenant Act applied to, namely, the types he is adding, respite and convalescent, both of which tend to be short-term stays in residence. If convalescent care is such that it actually involves a rehabilitation or therapeutic program, Bill 120 would apply to convalescent care, as it does to the larger generic description we use, rehabilitative or therapeutic service. Because of the way this definition is used throughout the act, I think he's unintentionally extending the provision of Landlord and Tenant Act coverage to such short-term service as we normally describe as respite or convalescent.

**Mr Cordiano:** I'm not quite sure I follow that, but the purpose for this was once again to exempt this type of care from provisions of Bill 120. It's in the definition clause. It will probably become clearer as we move on and the other amendments that I propose become evident.

**Hon Ms Gigantes:** Mr Chair, could I make the suggestion, in that case, if Mr Cordiano is willing, that we leave this amendment so that when we look at the further sections in the act what I am saying may become apparent to him, which is that he is unintentionally extending Landlord and Tenant Act coverage to short-term care services that we normally describe as respite and convalescent?

**Mr Cordiano:** Why don't we do that, come back to it? We may even get some agreement on this.

**The Chair:** Mr Cordiano, you're asking for unanimous consent to stand this amendment down? Agreed? Agreed.

Mr Johnson, I see you have an amendment which looks similar, but not the same.

**Hon Ms Gigantes:** No, it's the reverse.

**Mr David Johnson:** Probably for the same reason.

Subsection 1(1): I move that clause (b) of the definition of "care services," as set out in subsection 1(1) of the bill, be amended by inserting after "services," "for any type of care that involves treatment and support or assistance to overcome addictive or substance dependency or physical or mental challenge."

**The Chair:** Do you wish to speak to your motion, Mr Johnson?

**Mr David Johnson:** Simply to say that the definition of "therapeutic and rehabilitative services" is not set out



anywhere in the bill. This definition sets out guidelines to understand the services.

**Hon Ms Gigantes:** This amendment, as I understand it, would have the opposite effect of Mr Cordiano's amendment. Mr Cordiano's amendment would have increased the scope of LTA coverage to care which is respite or convalescent and is short-term in nature. What is being proposed by Mr Johnson is that we limit what is defined as a care service to only those services that are addressed to addictive problems or physical or mental incapacities.

The concern of the Ministry of Housing on this score is that that would limit care services too narrowly. It would mean that if there were programs that provided a therapeutic or rehab service to people who needed life skills training in a residential setting, or what the experts call "psychosocial guidance," to help integrate those people into normal living conditions in society, this change in the definition would exclude these kinds of services. I don't know if that's Mr Johnson's intent, but if it is, the ministry will not support that, because it places too close a limitation on the types of programs which do exist at the community level and which are important within a residential setting.

**Mr David Johnson:** It's my understanding that this amendment is attempting to put some better definition around the words "therapeutic and rehabilitative." Perhaps the minister would elaborate. Without an amendment such as this, how are these terms going to be interpreted, or what scope is going to be given to these terms as the bill stands?

**Hon Ms Gigantes:** I could ask Mr Johnson, what scope does he think is reasonable? What he suggested in this amendment is a very narrow definition, so the only rehabilitative or therapeutic services that would be defined for purposes of this bill would be those that had to do with addictions or physical or mental incapacities. If, for example, we take a situation where there are services that are residential in nature that are addressed to the needs of young women who come from abusive situations, who may have children, that definition he's using might rule them out, even though one could suggest there are rehabilitative or therapeutic services being provided in such a setting.

**Mr David Johnson:** Since we're asking each other questions, young people who have come from an abusive setting might include the young ladies at the Massey Centre, for example?

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** The Massey Centre made a presentation to this committee and indicated that if this bill is implemented, even with the latest amendment, the two-year amendment, it will still affect them because, as they have indicated to us, part of their program exceeds that two-year period.

**Hon Ms Gigantes:** If I understand what Mr Johnson is suggesting, it is that the only services we should consider when we are considering the definition for purposes of confining the application of the Landlord and Tenant Act should be those services that are directed to

addictions, or physical or mental challenges or difficulties. That's a very limited kind of definition, in our view, and I don't think you might always like the outcome in the application.

Again it might be helpful if the amendment were stood down until it was clear how the change in this definition might affect other applications within the bill.

**Mr David Johnson:** I'll accept the minister's advice on that.

**The Chair:** Mr Johnson has requested that the amendment be stood down. Agreed? Agreed.

**Hon Ms Gigantes:** We certainly should have dealt with the next amendment or the next motion first.

**The Chair:** I have a further Progressive Conservative motion to subsection 1(1). It is out of order, Mr Johnson.

**Mr David Johnson:** The motion is out of order and I haven't even given it?

**The Chair:** You can make the motion if you wish.

**Mr David Johnson:** This is the one with regard to fast-track. I move that section 1 of the bill be amended by adding the follow subsection:

"(1.1) Section 1 of the act, as amended—"

**Hon Ms Gigantes:** No, that's the next one.

**Mr David Johnson:** That's the next one I have on the yellow sheets. I'm just going in the order the yellow sheets are in.

**The Chair:** Okay. That one is not out of order, but the one I had is that 1(1) be struck out.

**Hon Ms Gigantes:** Shouldn't we deal with that first? There's no point amending it if you're going to strike it out.

**The Chair:** Actually, this one goes first, because (1.1) follows this one.

**Mr David Johnson:** I move that subsection 1(1) of the bill be struck out.

**The Chair:** Mr Johnson, that amendment is out of order. Now subsection 1(1.1).

1420

**Mr David Johnson:** I move that section 1 of the bill be amended by adding the following subsection:

"(1.1) Section 1 of the act is amended by adding the following definition:

"'fast track,' in respect of a care facility, means a process whereby the landlord or care giver causes a resident to vacate his or her unit immediately in order to leave the residence entirely or to be moved to another, more adequate, unit."

To include a definition of fast-track eviction was actually proposed by Dr Lightman. It says here it will probably be ruled out of order, but obviously it isn't—not to put thoughts in your mind, Mr Chair.

**The Chair:** If you want, I could consider it.

**Mr David Johnson:** During the hearing process a number of groups expressed a concern about the eviction process. To give credit where credit is due, the ministry has made some movement to address some of the concerns. However, it's still apparent that a number of the

groups will not be able to fit within the new definition, the new amendment that has been put forward, and I suspect the Massey home may be one of those.

A number of groups, some of which I quoted from yesterday, indicated that if they do not become exempt from the Landlord and Tenant Act, either under the six-month definition or under, now, the new definition the minister put forward this morning, they will have problems in terms of proceeding with their programs. Ecuhome has indicated that it will be disastrous to its program: They may have to close.

There were other examples; I wish I could recall them at this instant. I know we had deputations from St Vincent de Paul, from St Michael's Halfway Home. Perhaps that's an example. I don't know if they would fit under the new definition. As I can recall, they ran a program for rehabilitating those who were suffering from alcohol abuse, and the concern they put forward, that I think you heard again this morning, is that if they have 10 people and one or two decide to drink—in other words, to go outside of the program—this could be a problem for the rest of the people.

That may not be a good example of fast-track, though, now that I'm thinking about it, but there are other cases where in Ecuhome or other homes there'd be people who would be causing a great deal of disruption, where the tenants are living in fear. I quoted one example of a person who was harassing another person, and they were having trouble getting that person out. They need a fast-track method to deal with people who are causing a great deal of distress to other tenants.

This was a theme we seemed to hear over and over again from many groups that came before us. We're suggesting that this bill contain provision for such an approach for those who will not qualify for exemptions. Dr Lightman apparently agreed and recommended such an approach.

**The Chair:** On reflection, having spoken with legal counsel, I'm afraid the amendment is out of order.

**Mr David Johnson:** Can you tell me why?

**The Chair:** It introduces a new concept into this section that the section doesn't contemplate, nor the act.

**Mr David Johnson:** I'll ponder on that.

**The Chair:** We will not be able to deal with subsection 1(1) because we have two amendments stood down from it. We will then deal with subsection 1(2). Are there questions, comments or amendments to subsection 1(2)? If not, shall subsection 1(2) carry? Carried.

Subsection 1(3): the PCs. Relating to clause (h), just to help. We have quite a number of amendments to subsection 1(3).

**Mrs Marland:** I move that clause (h) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by inserting after "Public Hospitals Act" in the second line, "the Homes for Special Care Act, the Homes for Retarded Persons Act."

It would be great if the government could change the name of that Retarded Persons Act while it's doing anything else in the next year. It's time we changed the name of that act. It's a very old, out-of-date term.

Anyway, the Homes for Special Care Act and the Homes for Retarded Persons Act are both exempt under the Rental Housing Protection Act in Bill 120, clause 27(2)(b). We would like them to have continued exemption from the Landlord and Tenant Act, as they currently do. If there's agreement on that—the minister's nodding—I won't bother saying any more.

**Hon Ms Gigantes:** No.

**Mrs Marland:** Oh, it's just that you understand what I'm saying. I got excited for a minute when I saw you nodding.

**Hon Ms Gigantes:** I'm so agreeable.

**The Chair:** Have you completed your comments, Mrs Marland? Further questions, comments?

**Hon Ms Gigantes:** While I can understand the concerns that get expressed around coverage for facilities which operate under these two acts, it is the case that there are organizations which currently operate under these two acts and use the Landlord and Tenant Act.

It is also the case that the use of the Substitute Decisions Act, which will come into force before long, will be of great assistance in situations where the capacity of a resident needs to be determined, but in many cases people both in settings operating under the Homes for Special Care Act and the Homes for Retarded Persons Act are in fact capable of making decisions around their own personal lives and making decisions around the settings in which they live.

That being the case, we think it important to provide scope for that to happen, that people who are living in facilities that operate under these two acts should not be living in facilities which are in effect run like institutions. If we believe in community-based living situations with support services for people, such as the residents who live in facilities under these two acts; if we believe there is a different kind of living situation and a different sense of responsibility for their own lives, ability to make decisions around their own lives; and if we believe they should be living in facilities which are not small replicas of institutions where all parts of their decision-making process are in effect institutionalized, we should also say that given the kind of special arrangements that can be made within the provisions of the Substitute Decisions Act and the Mental Health Act, operators should be able to move, as many operators already have, to using the Landlord and Tenant Act as the basic legal framework in their relationship with people who are not there for six months or a year or 18 months.

These are permanent homes for people who are living in the community. These are not temporary treatment facilities. These are not mini-institutions set in the community. These are the permanent homes of the people who are residents under the provisions of these acts. We believe, because there is experience in the field, that they can operate within the provisions of the Landlord and Tenant Act and that the nature of our community-based living situations for these people will improve because of that.

**Mrs Marland:** I don't disagree with anything you've said about how people living in these kinds of facilities



are able and should be able to make decisions about their own lives. I've got some wonderful examples in my own riding. But would you agree, first of all, that those homes are owned and operated, for the most part, by very responsible organizations like Community Living and so forth?

1430

**Hon Ms Gigantes:** Yes.

**Mrs Marland:** If that's the case, I'm wondering why we would be concerned about having to put them under the LTA.

**Hon Ms Gigantes:** For one, Margaret, you will remember that Community Living Ontario supports this inclusion. They have experience in local chapters which bears out to them that operating within the Landlord and Tenant Act is not only suitable but beneficial for the people in their care.

**Mr Cordiano:** It speaks to some of the fundamental notions about why it's necessary to bring these mini-institutions, if you will, under the Landlord and Tenant Act. I have no problem with the Landlord and Tenant Act being extended to those living arrangements that are indeed permanent. I have a great deal of difficulty with this act changing the fundamental premise for which those centres were established that provide rehabilitative services, changing them through a Housing bill no less, because in effect what you're doing is changing the very programs they've been operating under.

I would have preferred to see the Ministry of Health and the Ministry of Community and Social Services change their funding requirements so that the criteria established for those programs are altered fundamentally. What you're doing in effect is retroactively taking these providers and their services and altering the way they're going to function through a Housing bill. You're saying they're now going to become providers of housing of a permanent nature. If that's the case, that's fine, and the Landlord and Tenant Act should apply. Those are residents in permanent living situations and their rights should be extended, as they are for other tenants.

Where the grey area lies is with respect to rehabilitative services. Of course you attempt to address that in your other amendment, but to go back to a definition here, it's quite unreasonable to me that we should try to ensnare all these centres by way of Bill 120 and change the very nature under which they've been operating.

It would have been much more acceptable to us if this had been done openly and straightforwardly, to take all these centres and change their funding criteria and change the way in which they operate, to say essentially, "If you want to stay in these types of businesses, you're going to have to operate under these sets of circumstances."

**Hon Ms Gigantes:** May I respond to that, Mr Chair? If you look at the precise amendment in front of us, Mr Cordiano, it deals with those facilities or residences that are operated under the Homes for Special Care Act and the Homes for Retarded Persons Act.

**Mr Cordiano:** I understand, and they're more permanent.

**Hon Ms Gigantes:** Some of those will be transitional

settings, but in most cases what you're dealing with is permanent residences.

**Mr Cordiano:** I have no difficulty with that.

**Hon Ms Gigantes:** Then whatever questions you have around specific therapy programs and rehabilitation programs I think would be better raised in another section. This is really dealing with permanent housing. The operators who are operating these facilities have always been aware that what they're providing is some permanency of accommodation.

**Mr Cordiano:** The crossover point is what I'm concerned about, obviously, the intersection between how we define what is a rehabilitative centre—

**Hon Ms Gigantes:** But that's not the question here.

**Mr Cordiano:** I understand, but the exemption is made there under these acts that provide more permanent housing.

**Hon Ms Gigantes:** But there's not a question of finite programs with the Homes for Special Care Act or the Homes for Retarded Persons Act. Here, what we're dealing with, if we add them as an exemption, and that's precisely the point I'm trying to make—

**Mr Cordiano:** You're further exempting afterwards. Under those acts, it brings all those operators and providers within this section. Whether they're temporary or rehabilitative or transitional in nature is not at issue here. It's just bringing all of those under this section, and then you're exempting them further under another section. So my comments are in order with respect to this section.

**Hon Ms Gigantes:** Well, no, because what you're looking at under—

**Mr Cordiano:** Okay. We're going to have an argument for half an hour about this.

**Hon Ms Gigantes:** If that's the situation, I'll leave it at that.

**Mr Grandmaitre:** Mr Chair, could I ask the minister a question? You're saying that at present this amendment should be dealt with in the same way as we dealt with the previous amendments for the simple reason that—you're not saying this?

**Hon Ms Gigantes:** No. I'm saying that what is attempted through this amendment is to extend the exemptions by way of which acts are exempted from the total legislation because of the definition of residential premises, and adding to that list the acts that are the Homes for Special Care Act and the Homes for Retarded Persons Act, which cover permanent housing. That's what I was trying to discuss with Mr Cordiano.

1440

**Mrs Marland:** I don't have the Homes for Special Care Act here and I guess no one else does, and I don't have the Homes for Retarded Persons Act here either. I don't think any of us on this committee has those acts memorized, just as we don't have any of the acts that are printed under (h) memorized. When you look at some of the other acts here, the Developmental Services Act, for example, some parts of that act probably deal with the same client as in the retarded persons act.

**Hon Ms Gigantes:** Oh, yes, but not in matters of

accommodation. These two acts are dealing with homes. The acts are rightly named and they are dealing with permanent accommodation. That is why Community Living Ontario, having considered the question very carefully, has been supportive of the approach, because Community Living Ontario has recognized that what we're dealing with under these two acts is the permanent living, the home of the people who are being provided accommodation.

**Mrs Marland:** What about the Nursing Homes Act? Those are homes for people with special needs.

**Hon Ms Gigantes:** But those are regulated under other pieces of legislation.

**Mrs Marland:** Well, it's the Nursing Homes Act. You're saying these two acts deal with homes. I'm suggesting there's another act that does deal with homes.

**Hon Ms Gigantes:** There are equivalent protections for residents under the Nursing Homes Act as are found in the Landlord and Tenant Act, and therefore there is no need to duplicate.

**Mrs Marland:** Are residents of nursing homes protected under the LTA?

**Hon Ms Gigantes:** There is a due process for eviction. They are not protected under the Landlord and Tenant Act, but a mirror process is in place.

**Mrs Marland:** That's interesting, because I've dealt with problems for people in nursing homes. I'm talking in this particular instance of a nursing home operated by a regional government where families were being asked to remove their relative because they were disruptive. The family didn't think the relative was disruptive and thought the wrong party was being blamed. They didn't seem to have any protection from being ousted.

**Hon Ms Gigantes:** I'd be glad to get you some information about what rights should have been brought to their attention.

**Mr David Johnson:** The minister, in her comments in terms of why we wouldn't need this amendment, alluded to the fact that we would have a Substitute Decisions Act in the near future. Could you tell me what you expect on the timing of that? There have been various reports that that may not be until after the next election now.

**Hon Ms Gigantes:** No, the plan at this stage is for proclamation in January 1995.

**Mr David Johnson:** That's still the plan, is it?

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** I know it's coming under tremendous fire.

**Hon Ms Gigantes:** For all the wrong reasons.

**Mr David Johnson:** Somebody was quoted in the paper, I forget just who—

**Hon Ms Gigantes:** Some tangled-up lawyers.

**The Chair:** Are we speaking to this section?

**Mr David Johnson:** The minister raised the issue.

**The Chair:** It doesn't really matter who raised it. Further questions or comments to Mrs Marland?

**Mr White:** I'm just curious. Would the Homes for

Retarded Persons Act not have been superseded by the Developmental Services Act, which is included in this clause? The minister indicates no, I believe.

**Hon Ms Gigantes:** That's correct.

**Mrs Marland:** That's what I just asked.

**The Chair:** Further questions, comments or amendments to Mrs Marland's amendment to subsection 1(3)? If not, shall Mrs Marland's amendment carry? All in favour? Opposed? It is lost.

We then have Mr Grandmaître.

**Mr Grandmaître:** I move that clause (i.1) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by inserting after "rehabilitative" in the third line, "respite, convalescent care."

**Mr David Johnson:** Doesn't the government have a proposal to delete that whole section?

**Hon Ms Gigantes:** That's right.

**Mr Cordiano:** That clause was really in the absence of striking out that section which deals with the question of principal residence. If you strike that section out, there's no necessity to include this definition. I think that would be a better solution, so we'll withdraw that amendment.

**The Chair:** Fine. We'll go with the government amendment.

**Mr Gary Wilson:** I move that clause (i.1) of the definition of "residential premises" in section 1 of the act, as set out in subsection 1(3) of the bill, be amended by adding "and" at the end of subclause (i) and by striking out subclause (ii).

This amendment removes the clause which required the building in which the accommodation is located to not be the principal residence of the majority of the occupants in order for accommodation to meet the rehabilitation and therapy exemption. We did this to reflect the fact that many rehabilitative programs serve people such as the homeless and runaway teenagers, many of whom have no permanent residence.

**Mrs Marland:** What English-language whiz wrote that section?

**Mr Gary Wilson:** Is there something you don't understand? Is that a question?

**Mr Cordiano:** As my earlier clause, dealing with respite and convalescent care, was stood down, there is an insertion I would like to make by way of my amendment dealing with this section. I stood all of these items down so we could deal with it at some further point, so I hope you won't rule that out of order now, given that this other clause is before us. Do you follow what I'm saying?

**The Chair:** I'm having trouble following you.

**Mr Cordiano:** The subsection dealing with the definition of residential premises. In this clause, (i.1), there is the word "rehabilitative." I would insert, after "rehabilitative" in that third line "respite and convalescent care." It follows within the same provisions that would be made for an earlier subsection. This is just for consistency. Wherever the word "rehabilitative" appears, I would have



the words "respite and convalescent care" follow. I just alert you to that so you won't rule it out of order at some point when we deal with that matter.

**The Chair:** Thank you, Mr Cordiano.

**Mr Cordiano:** Now, on the item that's before us—

**The Chair:** That's what we really wish to hear about.

**Mr Cordiano:** I would ask the minister if it would be within her power—yes, of course it is—to change the word "and" at the end of that last subsection to "or," which would give a little more flexibility in terms of the definition. You've completely ruled that out?

**Hon Ms Gigantes:** Yes.

**Mr Cordiano:** The test then would be that you'd have to satisfy both of these conditions.

**Hon Ms Gigantes:** That's correct.

**Mr Cordiano:** We would like to see the possibility for greater flexibility. Obviously, you're ruling that to be not acceptable.

**Hon Ms Gigantes:** That's correct. We feel it's important to require that there be more than one test, namely, either occupancy, termination with objectives or—

**Mr Cordiano:** Or?

**Hon Ms Gigantes:** —the six-month criterion. We don't want "or." They have to be in addition to.

**Mr Cordiano:** I don't know that I want to try to amend this and have it defeated. I'm simply stating this as I am right now, that I would prefer it to be "or." I'll take it at face value that you're not going to accept this.

**Hon Ms Gigantes:** That's right.

**Mr Cordiano:** That's fine.

**Hon Ms Gigantes:** I think we're ready to vote.

**Mrs Marland:** You're a good Chairman, Evelyn.

**The Chair:** Are there further questions or comments with regard to Mr Wilson's amendment to subsection 1(3)?

**Mrs Marland:** I'm going to restrain my comments.

**Mr Gary Wilson:** I'd like a recess, Mr Chair.

**The Chair:** Mr Wilson has requested a 20-minute recess. The committee will reconvene at 3:15.

*The committee recessed from 1453 to 1513.*

**The Chair:** Mr Wilson has moved an amendment to subsection 1(3). All those in favour of Mr Wilson's amendment? Opposed? Carried.

**Mr Cordiano:** Mr Chairman, to be consistent with what was moved earlier and then deferred, I move that clause (i.1) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by inserting after "rehabilitative" in the third line, "respite, convalescent care."

**The Chair:** And you are requesting?

**Mr Cordiano:** For the same reasons I had requested earlier, a deferral.

**The Chair:** You're requesting unanimous consent to stand this amendment down, to be consistent with the one we stood down to section 1. Agreed? Agreed.

Mr Cordiano, you have another amendment.

**Mr Cordiano:** I move that subclause (i.1)(iii) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by striking out "six" in the fifth line and inserting "eighteen."

Obviously this deals with our desire to see the exemption provision expanded to include many more centres. As we heard repeatedly from many deputants, the six-month period was insufficient for them to do what they have to do within their programs. The average length of stay for many of their residents was 18 months. This amendment reflects that overwhelming view we heard before the committee.

**Mr George Mammoliti (Yorkview):** I have a question, I think appropriately addressed to legal counsel. It's in reference to the difference between the amendment we have before us and the amendment the government has brought forward revamping or changing the scope of subsection 110(3) of the Landlord and Tenant Act. That, for me, means quite a bit. I'd like to know the difference, because I have a similar amendment I'm looking at moving. If there's not that much difference, I think we could forget other amendments, but if there is a big difference, of course I need to think about that myself.

**Mr Russell Yurkow:** I don't think there is a big difference. There is a difference in approach. The change to the definition excludes all these units from the operation of the Landlord and Tenant Act. The government's proposed amendment to the Landlord and Tenant Act allows the units into the Landlord and Tenant Act but deals with the eviction process. Changing the definition excludes all the units, whether it's 18 months or 24 months, where the average is less than that period of time. The change to section 110 of the Landlord and Tenant Act basically—no one is within the two-year period. There are subtle differences. I don't think they are major differences.

**Mr Mammoliti:** Let me give you an example of a potential situation. Under the proposed amendment from the government, if a resident of a drug rehabilitation clinic, for instance, runs into a dispute with the landlord, the care giver, before the two years, does that care giver have to go through the Landlord and Tenant Act process? And under the Liberal motion, would it be similar in that the landlord would have to go through the same process, under both amendments?

**Mr Yurkow:** Under the Liberal motion, if the average length was less than 18 months, that unit doesn't come under the Landlord and Tenant Act. Under the other version, the unit is under the Landlord and Tenant Act, and then you can short-circuit the eviction process. The one doesn't apply at all; in the other case, the act applies, but you have a quicker remedy of eviction.

**Mrs Marland:** It's clear as mud, isn't it?

1520

**Hon Ms Gigantes:** I ask legislative counsel this. If there were a facility in which, under the Liberal motion dealing with an 18-month non-application test, people stayed in the program anywhere ranging from three months to three years, that would mean you could live in

this facility for three years or even more and not have the Landlord and Tenant Act apply. It doesn't assume that there would be a situation where, once a program was completed, you would be expected to leave.

**Mr Yurkow:** I'm not sure about the latter part of the question, but as to the earlier part, the fact that someone is in a unit for three years doesn't necessarily bring it within the ambit of the Landlord and Tenant Act, because we're saying it's the average stay, however "average" is calculated. I don't know if that addresses your question.

**Hon Ms Gigantes:** Yes, thank you.

**The Chair:** The Chair has a question. Do we know how the average will be computed?

**Mrs Marland:** That's a good question. What's the answer?

**Hon Ms Gigantes:** The average will be computed based on the actual records of residency within the facility.

**Mr David Johnson:** Over what period of time?

**Hon Ms Gigantes:** I would assume a year, but that will be determined by regulation. If you have proposals on that, I'd be glad to hear them.

**Mrs Marland:** Will you be going back to what's been average, or are you going to just start from when the act is proclaimed?

**Hon Ms Gigantes:** That would be determined by regulation. If you have proposals, I'd be glad to hear them.

**Mr Gary Wilson:** I would like to remind the committee members that we heard many people come forward to talk about the importance of the extension of rights to as many people as possible. What we're trying to do in this bill is make sure that those rights apply to people in accommodation that can be called permanent, or at least where they can expect to require some security of tenure. The important thing about the time limits is to recognize that over a certain period of time it is important that people can have that security to be treated the way other tenants are treated in their place of accommodation; so that they have a right to privacy, a right not to be thrown out arbitrarily.

Our proposed amendment, when we get to it, does look at the issue and does provide another ground for eviction, but keeps in place that very important element of due process, which I think people recognize as being very important. As it does apply to most tenants in Ontario, now we're extending it to others.

The Liberal amendment provides quite a large space for exclusions, that there would be many more places that would qualify in a way we don't think would be helpful to the people in the programs.

Another thing that came up in the committee hearings was that people enter these therapeutic and rehabilitation facilities to be treated; that they're not there to set up a permanent residence. What we're talking about are relatively few cases. People raised this question in a "What if?" category. In fact, the vast majority of people are there to be treated, and once that happens they move on. We're faced with the problem of dealing with a very

small number of cases by removing rights for a very large number of people. I think that is not the way we want to go.

**Mr David Johnson:** I have a question for legal counsel. I just want to understand. Under the Liberal amendment before us, in Ecuhome, for example, which made a deputation, if the average stay, calculated as the minister has outlined, is less than 18 months, that facility would not come under the Landlord and Tenant Act.

**Mr Yurkow:** That's correct.

**Mr David Johnson:** That would be facility by facility, I presume. That wouldn't be Ecuhome as a whole, because Ecuhome has some 50 different properties. That would be facility by facility, home by home?

**Mr Yurkow:** I'm not sure. I haven't looked at it from that perspective. I'm not prepared to answer that.

**Mr David Johnson:** That would be a reasonable interpretation at this point. I think that was certainly what was intended, at any rate. If you had, for example, somebody who lived there for maybe two years or two and a half years, something like that, and needed the extra support, but there were other people who lived a year or less, and if the average was taken and that average was less than the 18 months for that particular home, it would not come under the Landlord and Tenant Act.

**Mr Yurkow:** It would not come under the Landlord and Tenant Act. That's correct.

**Mr David Johnson:** You were comparing this with the government's amendment. In that same set of circumstances, if you had one person in a home with, say, 10 individuals who lived there for two and a half years and the others lived there for a shorter time, such that the average was a year, still, because that one individual was there for two and a half years, then what? Then the home would still come under the Landlord and Tenant Act, I presume.

**Mr Yurkow:** Under the government proposal, if the average is more than six months, the home comes under the Landlord and Tenant Act, but if no one is permitted to stay in the home for longer than two years, you have a speedier eviction process, or a different eviction process plugs in.

**Mr David Johnson:** When you say a speedier eviction process, I'm not precisely aware of what you're talking about.

**Mr Yurkow:** The government proposal is amending section 110 of the Landlord and Tenant Act, which deals with termination of the tenancy by the landlord. A particular subsection the government proposal amends is subsection 110(3), which deals with when a writ of possession may issue. The government proposal deals with taking back possession, as opposed to the front end, where the unit isn't under the Landlord and Tenant Act at all. Under the government proposal, the unit is under the Landlord and Tenant Act but you can get a writ of possession.

1530

**Mr David Johnson:** Some of the providers who were before us claimed that to go through the Landlord and Tenant Act would take three or four months—



**Mrs Marland:** At least.

**Mr David Johnson:** Mrs Marland is saying at least that, and some people say longer. How much speedier would this provision under subsection 110(3) be?

**Mr Yurkow:** I probably misstated when I said speedier. All the government proposal allows is another ground for getting a writ of possession.

**Mr David Johnson:** I see. You still have to go through the same process. It's still three or four months. You still have to serve notice, but it allows you to serve notice in the first place. It's a condition for serving a notice.

**Mr Yurkow:** It allows a mechanism.

**Mr David Johnson:** In other words, at present you have grounds for eviction if the tenant doesn't pay, if the tenant causes a whole lot of disruption to other tenants—I'm just talking about the Landlord and Tenant Act in general—if the tenant does a whole lot of damage, or in some cases if you need the unit yourself for possession. What you're saying is that this is now one additional ground.

**Mr Yurkow:** This becomes an additional ground for getting a writ of possession.

**Mr David Johnson:** But if that individual is causing immediate distress, as in a couple of the cases we've heard through the hearings, it's no faster. It's no way to remove that.

**Mr Yurkow:** The government proposal isn't a fast-track eviction process.

**Mr David Johnson:** For example, if you have a drug or alcohol rehabilitation clinic with perhaps 10 other individuals, and one of those individuals decides to go back on drugs or alcohol, this is really of no assistance in terms of getting that individual out of there.

**Mr Yurkow:** If I can put it more simply, the government proposal deals with situations where it's anticipated that people not stay in the facility for longer than two years, and if someone does try to stay beyond that time, they can't rely on the protection of the Landlord and Tenant Act. The government proposal says, basically, "We designed this facility for stays of up to two years—"

**Hon Ms Gigantes:** Could I add to that? I don't think that is quite exact, and I'll put it to legislative counsel and I'd like committee to have it clearly.

If the program is designed to be less than two years, if everybody within that program is there for less than two years, then at any point when the program determines—it could be three months, it could be six months, it could be nine months; that could be the program involved. Say it's a nine-month program. Then at nine months people have to leave. It's as long as everybody within the program is there for less than two years.

**Mr David Johnson:** Actually, I agree with the minister's interpretation.

**Mr Yurkow:** I confess I agree with the minister as well. She said it better than I can.

**The Vice-Chair:** As we're all agreed now, we should move on to some of the other questioners, because there are four on that amendment. Perhaps you could finish

your question; you've had quite a bit of time already.

**Mr David Johnson:** It seems to me that we're addressing two different issues here.

The government amendment allows the provider to remove somebody who wishes to stay beyond the length of the program provided nobody in there goes more than two years. The Liberal amendment offers an exemption under the Landlord and Tenant Act with I think the main purpose of allowing the providers to deal with individuals who are causing havoc in the program. Whether it's a drug rehabilitation program, whether it's an alcohol rehabilitation program has nothing to do with—well, it may in a sense have something to do with the end period, if somebody wishes to stay beyond the term of their program. That could be addressed as well, but the main purpose is to allow the provider to get somebody out if they violate the program. That will take place under the Liberal amendment; it will not take place under the government amendment. Is that a fair synopsis?

**Mr Yurkow:** Under the Liberal amendment the unit doesn't get plugged into the Landlord and Tenant Act at all. Under the government amendment, the unit is under the Landlord and Tenant Act, but they're adding a ground for getting back possession.

**The Vice-Chair:** If there is further clarification required, it may come through further questioning.

**Mr Paul Wessinger (Simcoe Centre):** Mr Johnson covered the same point I was going to make, the fact that these two sections shouldn't be considered as alternatives. They deal with different issues. That's the point that should be clarified for Mr Mammoliti. They're not alternative. Even if this amendment carried, I would suggest that the government amendment, on its own merits, is still appropriate, because it deals with the question of terminating a program when some of the programs expire. They're not alternative provisions, in my opinion.

**Hon Ms Gigantes:** Could I just add to what legislative counsel has said? I hope it will clarify further. I believe the last comment was to the effect that under the government's proposal dealing with this element of the bill, the unit is governed by the Landlord and Tenant Act. There is a rider to that, and I hope everybody understands it.

The rider is, the Landlord and Tenant Act does cover the unit, but only where the average length of stay is over six months. If the average length of stay—and I want to reinforce this point—is less than six months, the Landlord and Tenant Act will not apply under the provisions of this bill. That means that in most cases of treatment and therapy programs that are known to the Ministry of Health and the Ministry of Community and Social Services, the Landlord and Tenant Act will not apply, for the reason that the average length of stay in residential treatment rehab therapy programs is less than six months. That's just the elemental kind of approach we have taken and the reason for that.

Let me continue a little further. What is the process that will apply in a situation where the Landlord and Tenant Act does apply to a program which would be

covered by the amendment we are proposing to provide an extra eviction power for the operator on termination of a program that was operating in a residence where people did not stay longer than two years?

For a resident who was disruptive, who was threatening, who damaged property, the process would be that the landlord, the operator, in this case, would use the Landlord and Tenant Act in order to evict, if that were considered the appropriate measure. The landlord would be in a position to know that one incident of problem behaviour might well be a precursor to further incidents of problem behaviour and would therefore, in the wisdom of the operator or the landlord, take immediate action to evict the resident.

The process would be one in which the resident, under the Landlord and Tenant Act, would have 20 days to prepare to respond to the eviction notice. We considered the possibility of shortening that notice period to five days. Given the very vulnerable nature of many of the people who are resident in care homes, we felt it inadvisable to shorten the period of notice, because that's the only period during which the resident has time to get assistance if there has been a notice of eviction which the resident believes to be arbitrary.

1540

The longest period of time involved in landlord and tenant matters normally occurs at the court level. Frequently, the difficulties that occur there have to do with the fact that landlords are not well informed about how to carry the process forward expeditiously.

We are prepared as a ministry to provide supports to landlords, in this case to operators of treatment and therapy programs, to make sure that all the pieces of legislation which can be of assistance to them and all the administrative bodies and personnel who can be of assistance to them in this process are made available.

In fact, we are prepared to and have indicated that we will undertake an education program to make sure there is a ground understanding by operators who have never had to use this process before about how to use it as effectively as possible, and to also help them understand how to build up the links in the community—police links, psychiatric official links—and the use of the Mental Health Act so that they feel they have supports within the community when an emergency arises. Emergencies do arise, that's a fact, and they need to have assistance to understand how to use the existing resources within a community.

We need to take an active part in helping police, for example, understand. We have changed the understanding of police officials in this province about how to assist in periods when they should be active. We've done that in domestic violence situations, and this is another area in which we have had evidence before this committee that there is need for a better understanding by police officials of what their responsibilities and capabilities are in a situation that constitutes an emergency. So we are prepared to take that on as a responsibility in the Ministry of Housing.

The question that arises before us here is a question of

where one draws the line between a treatment and a home. There are thousands of homes in Ontario in which government at various levels provides supports for life of various kinds. Some of them are psychiatric assistance. In some cases they're developmental assistance. In some cases they are assistance so that people can learn how to develop their social skills and move on to become employable. There are thousands of situations in which government support provides for these kinds of services.

For the most part, what we're talking about here are situations in which the people who are receiving services are living in a permanent home. We have to decide, as legislators, how long we think it reasonable to say that operators of a residential setting where treatment and therapy are being provided as services can continue to operate as if it is merely a rehab and treatment service which is being provided, that that's the primary reason why the person is resident at that place.

There have been many court cases around this, as many of the committee members will know. Some of the organizations which have appeared before this committee have been in court on these questions. There have been disputed judgements. There have been judgements which seem not to be consistent with each other on this question. The existing exemption over rehabilitation and therapy programs has been very widely interpreted by some judges and very narrowly by others.

One of the elements that we need to deal with here legislatively is to try and draw a legislative framework that will assist the courts, that will assist operators and that will assist those people who are receiving services while at the same time looking for a permanent home. It's a very important and very difficult matter. There's nothing magical about where you draw the line. Wherever it gets drawn, there will be cases which will be more or less difficult. We all understand that.

We don't assume, in putting forward this proposal legislatively, that everything will operate perfectly as a result of a new legislative recommendation. We know that the person who spent the most time studying and consulting with residents, with operators in care homes across this province, Ernie Lightman, felt very strongly that the landlord and tenant protections available to tenants living in permanent residences in this province should be available to people in care settings, which up to now haven't been regulated and where the protections haven't been available for residents. They should be available.

We think that we've proposed a reasonable kind of dividing line, if you want, about what is a treatment program, therapy- rehabilitation program, and what is a permanent home and where we think the emphasis switches to the fact that a person is living in a home, which is his or her home, and also receives some kind of supportive services, care services. That's what we're trying to do here.

Dr Lightman also suggested a fast eviction process because of his concerns around incidents that could arise. He came before this committee, having had discussions subsequent to his report with many people in the community, both here in the Toronto area and elsewhere, and



said, "This is not an easy thing to do."

He is, I think we probably all agree, the person who probably knows more about this field now, at this moment in time, than any other person in Ontario. He knows more about what's happening out there, more about the kinds of problems that arise, more about the kinds of coercive situations that tenants have had to suffer under, more about the difficulties that operators face, and in his judgement, when he came before this committee, he said, "I proposed fast-track, but I can't say to you that this is going to be an easy thing to accommodate." Essentially, that's what he said.

I think we have to face the fact that there is no magic about this, that there is no simple, hard, fast, clean, perfect solution. What we're trying to do here is to provide enough of a legal framework so that people who have been unprotected and very vulnerable up to now—in many instances people have suffered terribly because of their vulnerability, because of the constant threat of eviction. Here, I'm not only talking about people who have been enrolled in a treatment program but people who have had the need for strong life supports in order to be able to live, to eat, to move around at all, who have really suffered terrible degradation and coercion and difficulty.

These instances have arisen in communities across Ontario. They have been documented by Dr Lightman. Operators have had to face difficulty with abusive residents, with threatening residents, in some cases with violent residents, but the question we have to ask ourselves is, in order for operators to be able to provide the kinds of settings and services that they have done in Ontario, do we say that for a two-year period people who are living in homes where they receive care do not have the protection of the Landlord and Tenant Act, particularly as regards eviction, do not have access to a due process? That's the question in front of us.

The proposal that sits before you legislatively is the government's best attempt to reach a kind of balance around these issues. They're important issues; they're difficult issues. We don't pretend this is perfect, but we do think that it's a better proposal than the one represented by the Liberal motion.

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**Mrs Marland:** If there's one thing that's going to be valuable out of this whole process, it's going to be the ability to sell this Hansard to all the lawyers. We're going to have a nice revenue generator for the taxpayers of this province. I'm not sure how many people in this room have legal degrees, but it's a matter of who speaks as to what the interpretation is.

When you draft legislation that is full of so much gobbledegook that it takes lawyers to interpret it, then what? This lawyer interprets it this way and another lawyer interprets it that way. The government is saying that it wants to accomplish X, Y and Z. When the minister talks about the fact that there have been a lot of court-disputed judgements in the past, there sure as heck are going to be a lot more in the future after this legislation gets proclaimed. If you're going to have a legislative framework to assist the courts, you'd better have one, and

this isn't it. This is not straightforward; it's not clear.

You said, Minister, it's not perfect but it's clean. I can start picking holes. When we get to the government motion, I'm going to pick holes in the wording of the government motion. I realize that's not the one that's on the floor at the moment, but we seem to be discussing it because we're discussing the Liberal one.

If you really want to protect people who need treatment in a residential setting, which I think is what we're all talking about here, then why would you put a hammer over anybody's head? I think you said that as soon as their treatment's over, out the door; there's no reason for them to stay any longer. But that person, who maybe recovered in six months or eight months, may have another person who started with him or her at the same time and is still recovering in three or three and a half years.

The point is that it's so contradictory. When this Hansard is reviewed as to what has been said in the last half an hour or more between some of the comments that, I think it was you, Mr Wilson, made, and our legislative counsel and the minister for the last 15 minutes, it's all open to interpretation. When you're drafting legislation, I'm sorry, it has to be in black and white or it costs millions of dollars to interpret it. If I don't agree with your interpretation, I'm going to hire a lawyer and I'm going to go to court and I'm going to get a lawyer to convince that judge that this is the right interpretation.

When you talk about the government motion and it talks about "the period of tenancy agreed to has expired," what agreement is there? If somebody is absolutely out of it in terms of their treatment being needed right away because they're in such a crisis situation, are you going to make them sign a tenancy agreement that if they still need treatment after a specific period of time, they have to be willing to get out?

I think you're giving lawyers a licence to print money with the arguments that have been given in the last 40 minutes. If that's how this amendment to this section is going to be interpreted, with so much latitude for individual interpretation and individual cases to be pleaded on the part of individuals in need, in crisis, it's such an example of government being involved where it doesn't need to be involved. I think that's the bottom line.

I think you probably have enough clout in the advocacy legislation to ensure that people who need to be protected will be protected; if not, then strengthen it. But coming along with this aspect of this act on top of it—you talk about, as I said, disputed judgements. Boy, you haven't seen anything yet. It isn't going to work. It doesn't look at individual human beings and their specific needs in terms of treatment.

**The Vice-Chair:** Legislative counsel wanted to add a comment.

**Mr Yurkow:** I just want to make a point of clarification. I may not have expressed my views adequately, but on a sheer question of interpretation, there's nothing that the minister has said in her interpretation of the act that conflicts with the way I understand the act.

**Mrs Marland:** What I'm saying is that we're going



to be able to sell this Hansard and the lawyers are going to be able to go off to court with the minister's statement under their arm. This is what is intended; this is why it's needed; this is what is intended. Whether or not this is what it says, or whether or not this is how it works, this is what the minister said. Does that make it law? Do comments recorded in Hansard of a committee meeting make it law? I would suggest they don't, and I am not a lawyer. I would suggest the only thing that makes it law is the wording that ends up being published once the bill is proclaimed. That's what become law, not what anyone of us says in this room during the course of these deliberations.

It's a pretty futile exercise for us to be trying to guess. The minister's very sincere about what it is she wants to do, Mr Cordiano is very sincere about what he wants to do and Mr Mammoliti is very sincere about what he wants to do, but the reality is that this is the only document that will decide what happens. It isn't the stuff that's said in this room.

**Mr Cordiano:** I would just like to point back to what was said by—

*Interjections.*

**The Vice-Chair:** Mr Cordiano has the floor.

**Mr Cordiano:** Let me read from Dr Lightman's report, his recommendation 14. The ideal solution to this would have been, "That the Ministry of the Attorney General and other affected ministries define specific criteria for qualifying under the 'rehabilitative or therapeutic purpose' exemption from the Landlord and Tenant Act...." I won't go on further as to what he defines in his explanation for that, but largely my understanding of what he's saying is that it would have been easy and clean to have a definition for what "therapeutic or rehabilitative" means.

He goes on to say that this could have easily been satisfied because the ministries that fund these programs could define them by the funding process. Through the funding process, what criteria would be determined as to be essential for a definition of "therapeutic or rehabilitative" would have been much more easily handled.

I suspect, Minister, and I don't want to have too much to have to do with the government legislation, that this legislation was brought forward with some haste. I take some of the blame for this because I did call on you to act expeditiously on this matter. I know I'm being a little sarcastic, but quite frankly I think it would have been better handled if we'd had clear lines as to what rehabilitative centres and what therapeutic centres were actually engaged in through their funding criteria, and that could have been easily established.

However, and this is what causes me great consternation with respect to the approach that's being taken, as you put it, Minister, and as the Ministry of Community and Social Services and the Ministry of Health both alluded to yesterday, the nature of these programs and the very reason for their existence have changed. We're delinking care services from housing, and again I go back to that inconsistency. The fact is that this bill will inevitably put these centres out of business.

Your amendment, 2.1, I think is a compromise because there was a great of pressure. There's a great deal of reality that's staring us in the face, that in fact these centres will have difficulty dealing with the measures in Bill 120 and I think you came to understand that, that they will be dealing with very difficult circumstances, in some cases, as we've been told, life-threatening circumstances. Quite frankly, this is a compromise, but it's hodgepodge at its best. That's why I have great consternation with this bill, because there are two opposite things occurring here.

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On the one hand, these centres ought to have been dealt with through the Ministry of Health or the Ministry of Community and Social Services in another type of legislation which might have dealt with the purpose behind those centres in and of themselves, and that is to say, if we don't need them—you're delinking services—then they are in effect housing providers. So let's be open and honest about that and in as direct a way as possible deal with them on that basis.

You're making these providers housing providers, no longer providing the kind of services that integrate housing with services. I think you've said that very clearly to us, that this is no longer acceptable, that we no longer have many institutions out there, that we no longer need this nor is it desirable from your government's point of view. I question that, and I think many of these providers were a link for people to integrate into a community rather than being—this is the way you look at it—permanent places to live. I don't see them as permanent places to live. I see them as transitional exactly in the way they were invented, exactly in the way their original purpose was stated. They are transitional and they accommodate people in our community. They allow for that integration to occur. In my opinion, it's still very viable and still very necessary.

To suggest that they become housing providers of a permanent nature I simply think is the wrong way to go about it. If that's your real intent, then you should take back this legislation dealing with that section, exempt them entirely and deal with it in another fashion and just make everyone a housing provider under this bill and not try to combine the two things, because you obviously don't believe in the validity of that approach. You yourself have said so. So I have a great deal of difficulty dealing with the inconsistencies that are in this bill on that level.

**The Vice-Chair:** Mr Johnson's still on; however, you had an opportunity to speak already before. This is obviously a very important amendment and section, so I'll allow a little bit more debate, but I think we have spent quite a bit of time on this particular amendment.

**Mrs Marland:** Yes, the minister spoke for 20 minutes.

**The Vice-Chair:** Yes. Mrs Marland, I think you spoke at some length too.

**Mrs Marland:** I didn't speak for 20 minutes. I'll start keeping track. I'm very good at that.

**The Vice-Chair:** I will allow some more debate, but



not too much longer on this particular amendment.

**Mr David Johnson:** I've heard these kind of comments before and I just let them drift by as long as I can speak, but we did spend 20 minutes here idling, waiting for the government to get its votes together. I would be very disappointed if this becomes an issue of people not being permitted to speak to this.

I wanted to address a question to the minister because I think I understand how the Liberal amendment that we're debating here now would assist places like the Massey Centre and Eden Community House and St Vincent de Paul, for example, that have come forward asking for assistance from the terms of this bill, but I don't understand how the government amendment would help. I wonder if you would assist me in that regard.

Eden Community House, for example, which houses adults with severe and persistent mental illness, estimates that on average its residents stay there 2.4 years. That's their estimate.

**Mrs Marland:** Average.

**Mr David Johnson:** Yes, average.

St Vincent de Paul, which made a deputation to us, says that from its experience—this is on page 5 of its brief—the process may take from one to two years, so the six-month business is out. We're looking at people who are there for longer than that.

To quote them again, from page 4:

"Illustrative of this would be the example of a resident who lives in one of our"—this is St Vincent de Paul—"homes for recovering addicts. All residents presently sign an agreement accepting as a condition of residency that they abstain from alcohol and non-prescriptive drug use. Early in our history of providing homes for people with addiction problems we found that abstention from alcohol or drug use was an absolutely necessary condition for providing a therapeutic environment. To allow someone living in a community of recovering alcoholics the right to use alcohol threatens the mental and physical health of every resident living in this community.

"This really is not an exaggeration. Alcohol is directly implicated in 10% of the deaths in Ontario and indirectly implicated in about 30%."

I guess what I'm asking is how the government's amendment—I understand how the Liberal amendment will help. If the average stay is under 18 months, then if the Liberal amendment was passed—they say one to two years in their program, so it's quite possible that the average stay could be under the 18 months—then they would not come under the terms of the Landlord and Tenant Act and they would be able to deal with somebody who is not abstaining from alcohol or drugs in their program. How does your amendment help St Vincent de Paul with that problem, which they think is quite a tremendous problem?

**Hon Ms Gigantes:** I'm not familiar with St Vincent de Paul's program except as you describe it and as has been brought before this committee.

If I understand correctly, the government amendment does not address the issue they're attempting to raise to committee members, because the situation is one in which

the average length of stay is above six months and the program itself certainly has not up to now been defined as one which is shorter than two years. Am I correct in those assumptions?

**Mr David Johnson:** That would seem to be the case, yes.

**Hon Ms Gigantes:** Okay. The government amendment does not address that in terms of providing authority or powers for the operator to get rid of, to evict summarily. On the contrary, what the government is proposing is that there would have to be a due process under the Landlord and Tenant Act for an eviction. This is not an impossibility, and in fact there are treatment regimes, treatment programs, and there are residences with high levels of psychiatric support, mental health support, programs in which people with high levels of need in terms of living supports, health supports, operate currently under the Landlord and Tenant Act.

There are operators, like perhaps St Vincent de Paul, who have never operated in that way and who would prefer not to have to think about operating in that way, but it does not mean that St Vincent de Paul would not be able to evict someone. There are certainly grounds, and you will be familiar with grounds under the Landlord and Tenant Act, for eviction. Certainly, the use of alcohol in a setting in which the community was committed not to use alcohol would allow an operator to evict on the grounds that the peaceful enjoyment of the home, of others, was disturbed.

You and I can only guess what judgement would be made by a judge, but I think you and I might guess that a judge would find that to be a reasonable ground for eviction.

**Mr David Johnson:** Really?

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** That totally amazes me.

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**The Vice-Chair:** Mr Johnson, you had the floor and you were looking for a brief comment from the minister.

**Hon Ms Gigantes:** I would feel the same way in the case of the Massey Centre for Women requirement.

**Mr David Johnson:** All right, let's look at Massey. I'm totally amazed in terms of St Vincent de Paul, because I doubt any judge would evict anybody on the basis that they were drinking. That would be a new interpretation, I think, but it will be interesting to see. I guess we're going to get a chance soon.

**Hon Ms Gigantes:** Each case is heard on its own, as you know.

**Mr David Johnson:** You mentioned the Massey Centre, and again, I understand, I think, how the Liberal amendment would assist the Massey Centre, because looking at the makeup of its residents, it would appear to me that there's some likelihood the average stay would be under 18 months.

They have three phases, I think. The first phase is for pre-natal, the second phase is 10 closely supervised one-bedroom units where the mothers and their infants live for a period of up to six months, and then phase

three is for those people who need longer assistance, and that can be, they say, up to two years, although I think they have verbally indicated that perhaps some individuals who go through the whole process would be there for over two years.

At any rate, the average stay would seem to be over six months but probably under 18 months. So again, the Liberal amendment I think would result in the Massey Centre being exempted from the Landlord and Tenant Act.

**Hon Ms Gigantes:** If you look at the wording of the amendment we've proposed, I think you will find that it will be of assistance to the operators of Massey too.

**Mr David Johnson:** The number one issue that they raise they pose this way:

"The issue of security is paramount. The majority of women at the centre come from violent and abusive backgrounds and often are still subject to negative influences from their past. Their stay at the centre gives them a chance to make a break from the destructive relationships in which many of them are involved. The regulations"—current regulations that are in place because they're not under the Landlord and Tenant Act, for example—"that prohibit overnight male visitors allow for the removal of threatening individuals from the units and permit the discharge of residents who engage in drug activities, prostitution or violence" etc.

The Massey Centre is of the opinion that once the Landlord and Tenant Act applies, they will not be able to set rules which will prohibit the male counterparts, I guess, that they're concerned about who will be violent and abusive, and they say that to depend on, and their illustration was a 17-year-old, calling the police in such a situation—it just won't happen.

They're very concerned about safety and they stress this over and over. "A safe environment is essential if the high-risk children are to thrive," they say, the children of the mothers. How does the government amendment assist them in providing that safe environment?

**Hon Ms Gigantes:** Could you refer to the government amendment?

**Mr David Johnson:** Yes, okay.

**Hon Ms Gigantes:** You'll notice "no other tenant of the building in which the accommodation is located." I don't know if you've ever visited it the Massey Centre.

**Mr David Johnson:** Yes, I have. I was there on opening day, as a matter of fact. Go ahead.

**Hon Ms Gigantes:** It has separate buildings.

**Mr David Johnson:** Yes. So this says that—

**Hon Ms Gigantes:** There would be three different programs being carried on in separate quarters at the Massey Centre.

**Mr David Johnson:** As I understood it from legal counsel, though, what this clause is essentially doing is giving another cause for eviction.

**Hon Ms Gigantes:** That's right.

**Mr David Johnson:** Is it doing anything else, other than that?

**Hon Ms Gigantes:** You've described the program as you understand it in terms of average length of stay.

**Mr David Johnson:** Yes.

**Hon Ms Gigantes:** What it does here is provide that the length of the program agreed to will provide a reason for eviction within the term of that program, if it's within two years.

**Mr David Johnson:** Their concern, though, is that within the duration of one of those terms, male visitors are coming and causing security problems.

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** I don't see how your amendment addresses their number one concern, which is that.

**Hon Ms Gigantes:** In a program that is less than six months, which is one program they operate, landlord-tenant coverage would not be implied by Bill 120.

**Mr David Johnson:** But for phase 3—

**Hon Ms Gigantes:** Phase 3 is accommodation which may range up to three years.

**Mr David Johnson:** They say two, but you may be right.

**Hon Ms Gigantes:** Two, three. Then when the program is complete, the person is asked to move. If the person is a resident and providing a disturbance to the quiet enjoyment of residency by other people in the program—

**Mr David Johnson:** It's not the resident; it's a visitor to the resident.

**Hon Ms Gigantes:** But it is a resident who is permitting the visitor; it's a resident who permits the visitor and can be evicted now.

**Mr David Johnson:** But, Minister, the problem is that the resident doesn't want the person there any more than anybody else does. This is an abusive—

**Hon Ms Gigantes:** If the resident doesn't want the person, and the people in the program don't want the person, then the police should be called. How do they get rid of such a person now?

**Mr David Johnson:** You know, this is exactly what the Massey Centre people say. You're talking about people who are under stress. You're talking about—

**Hon Ms Gigantes:** What do they do now?

**Mr David Johnson:** They have rules and they can evict these people themselves, as the management, but as I understand it—

**Hon Ms Gigantes:** But I thought you just told me that it wasn't the resident who was the problem and it wasn't a question of evicting. What is their method of dealing with the situation now when it occurs?

**Mr David Johnson:** As they've described it to me, because the Landlord and Tenant Act doesn't apply, they are able to set rules which they can enforce internally.

**Hon Ms Gigantes:** How do they enforce them?

**Mr David Johnson:** I don't know. I would assume—

**Mr Grandmaitre:** Through a committee.

**Hon Ms Gigantes:** Yes, but what is the penalty?

**Mr David Johnson:** The point they're making—



**Hon Ms Gigantes:** Is the penalty eviction?

*Interjections.*

**Mr Cordiano:** The threat of eviction. That's how it works.

**The Vice-Chair:** I don't think this is particularly helpful.

**Hon Ms Gigantes:** No, I don't think it is.

**Mr Cordiano:** It works.

**Mr Gary Wilson:** That's not what we heard.

**Mr Cordiano:** Sure we heard that.

**The Vice-Chair:** Try and rephrase your question, Mr Johnson.

**Mr David Johnson:** Obviously, we're barking up a—

**Mr Grandmaître:** Through a committee, Gary.

**Mr David Johnson:** —a tree here without any assistance. But we had the Massey Centre in front of us. They made a deputation. I thought there was considerable concern for their plight.

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** They're telling us that this isn't going to help them. This isn't their main problem. I'm just curious to understand what happened in between, when all the sympathy was provided to the Massey Centre. They were here yesterday and they said that because of the reasons I've mentioned, this amendment is not going to solve their problem. I guess we have a difference of opinion. I don't know what else to say.

**Hon Ms Gigantes:** I didn't say it was going to solve anyone's problems.

**The Vice-Chair:** Mr Owens and then Mr Mammoliti.

**Mr Owens:** I was going to suggest that if I was the last person on the speakers' list, I would yield my time in deference to the Chair's comments that we've had a lot of significant discussion. No, I am not calling the question.

**The Vice-Chair:** I'm just saying that we have another motion that is very similar to the one that's before us, so we can continue the debate at that point as well.

**Mr Owens:** Absolutely.

**Mr Mammoliti:** When an individual in a place like—I'm sorry. What was the place called, David, that you used as an example?

**Mr David Johnson:** St Vincent de Paul was the first one and then the Massey Centre.

**Mr Mammoliti:** In a place like Massey, for instance, where they're getting the visitors, apparently there's a problem there where they're getting visitors. It's posing problems in terms of the therapy and the care that's given there. Do we have any precedent in the courts, and I guess the question is to the minister, that would say that people have been evicted because of male visitors?

**Hon Ms Gigantes:** I could not answer that question and I don't know if there are any Ministry of Housing people here who would be able to answer that question. No volunteers?

**Mr Mammoliti:** I guess I'd like to pose the second question: Is there any precedent for anybody being

evicted because they had a bottle of beer in their home?

**Hon Ms Gigantes:** Excuse me. I think I might not have understood your first question properly. What you're asking is about all landlord and tenant cases?

**Mr Mammoliti:** Yes.

**Hon Ms Gigantes:** Oh, I'm sorry. I understood your question to be directed at care home situations.

**Mr Mammoliti:** No.

**Hon Ms Gigantes:** I'm very sorry.

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**Mr Mammoliti:** Male visitors and having a bottle of beer in their home: Have the courts ruled on this as being behaviour that might warrant eviction?

**Hon Ms Gigantes:** In the first case, I'd be surprised if in some drastic circumstances with court orders and so on, there had not been some kind of judgement of that nature. In the second, I'd be surprised if there were.

**Mr Mammoliti:** More specifically towards what's been addressed here in reference to alcohol and drug abuse, in some of these places it is absolutely forbidden, not because the care givers want to forbid it because it's just a rule they want to make up; it's forbidden because it jeopardizes the care that's being given to the rest of the clients who are in the building. One bottle of beer to an addict, to somebody who is an alcoholic, during his stay in the treatment program could spark the behaviour pattern that they're ultimately in there to get away from. In some of these care facilities, the care takes more than six months.

That's the issue here. For that reason, I'm going to have to say that I support this particular amendment, because in my heart I believe that you cannot jeopardize or tie the hands of these types of care facilities. It's unfortunate that some people might want to even accuse me of not caring for tenants and not looking out for the best interests of tenants, but in essence, by agreeing to this, I am; I'm looking after the best interests of the most vulnerable in this particular case, and those are the tenants, the people who are out to seek help. If you jeopardize their stay there, and if they go out before six months are not fully—there's never a cure for this stuff—in control of themselves, then society suffers as well in terms of social problems.

The other issue is that you mentioned earlier that you would be prepared to give resources to these types of places. When these places apply for funding to any ministry—

**Mrs Marland:** Right.

**Mr Mammoliti:** Margaret, it's scary for me and you to agree.

**Mr Gary Wilson:** I'd think about that, if I were you, George.

*Interjections.*

**The Vice-Chair:** Mr Mammoliti, you have the floor.

**Mr Mammoliti:** In this particular case—

**Mr Gary Wilson:** Think about it.

**Mr Cordiano:** He's an independent thinker. Leave him alone.

**Interjection:** He even said it himself.

**Mr Cordiano:** That's something you can't say.

**Mr Mammoliti:** In this particular case—

**Mr Cordiano:** Don't condemn him.

**Mr Mammoliti:** I lost my train of—

**Mrs Marland:** You were saying that these programs are funded—

**The Vice-Chair:** Would you please leave the floor to—

**Mr Mammoliti:** Yes, exactly. Thank you, Margaret. When these places apply for funding to the ministries, the guidelines that are there do not include the court costs that it might cost for these places to take people to the courts that would look after this sort of thing, landlord and tenant courts.

When you talk about resources, is that what you're talking about? Are you saying that the ministries that would be involved here would be willing to give extra funding to these types of places to take care of them? That's a question that I'd like answered as well.

**The Vice-Chair:** Did you want to answer that?

**Hon Ms Gigantes:** Sure, I will. When I spoke of resources earlier, I did not mean to suggest legal resources. I was talking about resources which can be supplied by the Ministry of Housing in particular, and certainly by other ministries, about how to make the legislative framework a workable setting in which to operate rehab and therapy programs. That is educative more than legal.

However, it is the case that in the past many of the organizations which have provided what I would tend to call supportive housing, and what other people would call therapy and rehabilitation programs, have been taken to court. It is not the case that organizations have been out of court up to now. It is my hope as minister that we will have fewer court cases in the future with this legislation, which is clearer than past legislation.

There is an exemption now provided under the Landlord and Tenant Act for residences which provide therapy and rehabilitation services. As I mentioned before, there are many cases which have gone to court and in those cases—Mrs Marland has noted that—ministries have provided support to provide for legal defences by the operators, claiming that they did not have to have the Landlord and Tenant Act applied to them because they were exempt from the Landlord and Tenant Act.

To say that the Landlord and Tenant Act exemption that exists currently is one which has not generated court cases is simply to disregard our experience and the legal fees which the Ministry of Health, the Ministry of Community and Social Services and in some cases the Ministry of Housing have footed, while there are other organizations funded by the Ministry of the Attorney General which are supporting residents who have demanded to have the same legal protections as other tenants in Ontario.

This has been going on for decades. This is not the beginning of legislation and legislative court cases around this matter in Ontario. Let us not think that for a moment.

If, in the future, there are cases in which operators who are funded by Community and Social Services or by the Ministry of Health or by the Ministry of Housing are being taken to court, it has been the pattern that legal fees of cases in which the ministries felt the legal framework was being upheld by those operators are being subsidized. They have been in the past; I'm sure they would be in the future.

**Mr Mammoliti:** I think everybody knows an addict of one form or another, whether it's with illicit drugs or even prescription drugs or even alcohol. I want everybody to reflect on what that person or those persons might say at a very crucial point in their life when they were deciding to get off the substance and they needed that arm, they needed that help from some of these places. I want everybody to reflect and think about what those people we know would say if they saw at that time a bottle of beer or a glass of whisky or a hit of heroin or a hit of crack cocaine. Chances are that person will tell you that if he sees it, he'll take it.

**Hon Ms Gigantes:** Can I just say this, with due respect: To say that you can evict somebody for having a hit of cocaine in a residence does not mean that it will not happen. If we say that operators can evict within 30 seconds because somebody has cocaine, an illegal substance, in a residence, that doesn't mean it won't happen. It doesn't mean other people aren't exposed.

1630

**Mr Mammoliti:** Yes, but the question is, is it the right thing to do? By doing it, by evicting, whom are you saving? The answer is that you're saving the rest of the clients from a lengthy process and perhaps a process that might be very uncomfortable and can prove to be very discomforting to the people who are there to get help. That's the question you need to ask.

**Hon Ms Gigantes:** That's the question that is asked, and it is seriously answered when we make the legislative response we do.

**Mr Mammoliti:** Minister, your amendment—

**Hon Ms Gigantes:** We disagree about this. That's a fact.

**Mr Mammoliti:** All right. I'm on record.

**The Vice-Chair:** I thought we were getting close to the vote but I do have two more people now, unless they want to stand down.

**Mr Owens:** I wanted to say that I've sat and listened carefully and I certainly cannot support the Liberal motion that my colleague the member for Yorkview seems to want to support. I think we're mixing apples and oranges here that we've been talking about for the last number of weeks, and that is, what is the intent of the bill? The intent of the bill is not an attempt to address rehabilitation issues or care issues. Those are dealt with separately in other pieces of legislation.

With respect to the issue of drugs and alcohol on the premises, I can't not support the comments that Evelyn Gigantes makes that no matter what law you have in place or what rules you have in place, if there is a view by one of the residents that he'll use any of these substances, then he'll use them.



The question I have in my mind around this particular issue is, are we so able to protect people so wholly and so fully from the realities of life that we can say that if you're living at 100 Wellesley Street East, you have absolutely no chance of ever coming into contact with drugs or alcohol, ever, and that your rehabilitation is guaranteed?

I don't think we can say that, because what happens is that for Buddy, who is in the home with this great amount of protection that the member for Yorkview and the Liberal member seem to view this as providing, once he walks out that door he's in the big world now and there ain't enough police officers and alcohol is a legally dispensed substance. How do you protect the person from falling off the wagon or running into his or her old confrères in the drug-dealing business? You can't do that.

**Mrs Marland:** So then don't bother with these treatment centres at all.

**Mr Owens:** In terms of the issue, I think again the minister was quite honest and quite open that this ain't a perfect process and that where we find ourselves in 1994 is at the end of a series of tragedies. People have died. People have existences in places like Parkdale, which Mr Ruprecht from the Liberal Party happens to represent, that in terms of the kinds of existences these people have been forced to live in in an unregulated manner have to come to an end. In terms of the kinds of process the minister is proposing, I think it is a good compromise. We've tossed this around. I don't think there is an answer that's going to make everybody happy.

In terms of the issues with respect to places like the Massey Centre, I think you're right, Dave, in terms of the level of concern that was expressed with respect to having male visitors onsite. It's not only a problem at Massey Centre, but it's also a problem, for instance, in public housing complexes, Metro housing. If there's been an assault committed or if you're trying to keep somebody out of the premises, the way to deal with it is not through the Landlord and Tenant Act but through having trespass notices set, and through that method in terms of responding to individuals not being wanted on premises.

I think the member for Yorkview asked a question with respect to convictions on the issue of men in units. I don't think you'll find anything like that because there isn't anything for a court to turn a conviction on. In terms of looking for those kinds of statistics, they're just not going to be available.

In closing, Chair, I think you're absolutely correct. We have turned this problem over significantly, and maybe we should start taking a look at the second part of this same question.

**The Vice-Chair:** I have three more speakers now. The debate seems to encourage more speakers to intervene.

**Mr Gary Wilson:** You're planning to hear the other speakers, are you, Chair?

**The Vice-Chair:** Since there were some new comments at this point. Frankly, I would hope we can still call a vote still before 5, but we have a similar motion still to vote on as well.

**Mr Gary Wilson:** Right. It is on something Mr Mammoliti raised that I think flew in the face of many of the submissions we've heard that in fact people recognized these problems and told us they did everything they could before they evicted anybody in the setting, and in that sense, the extension of the Landlord and Tenant Act doesn't make a lot of difference; it's just one more form.

**Mr Cordiano:** Why do it?

**Mr Gary Wilson:** The reason—I'm asked, why do it then?—is that it provides due process. It's as simple as that. The thing that really moved me to say something is that Mr Mammoliti says, "Who are we trying to protect here?" That's the main issue. On these cases, many of them speculative, we would ask people who came, "How many cases do you have of having to evict?" and they've turned out to be relatively few. Often they couldn't even remember where they were, but they could certainly come up with scenarios just as we all sitting around here can come up with cases that might happen, but in fact very few of them do happen.

In trying to deal with those cases, we are denying the rights of many tenants who need that protection, the protection of due process. In finding a lot of legitimate reasons why somebody might be evicted, there are also many illegitimate reasons why people could be evicted and in fact are being evicted now. Those are the people we're trying to protect.

The thing about the Landlord and Tenant Act is that it provides due process that both landlords and tenants know is there and can turn to when it's needed.

**The Vice-Chair:** I have Mrs Marland and Mr Cordiano again. Hopefully, we'll have some new insight still.

**Mrs Marland:** If this was such a major problem that you're trying to resolve, there would be more argument for what you're trying to do, but the point is, as some people said to us, it is the elephant-gun-to-the-fly approach. What I'd like to ask is, when are agreements going to be honoured and when are they not? For example, in the government amendment, it talks about "the period of tenancy agreed to has expired." That's an agreement between the landlord and the client. Okay?

How different is that agreement than in Ecuhome, for example? They have tenancy agreements at Ecuhome. They also have agreements that illegal activity, as defined by the Criminal Code, is not permitted in the house or on the property. They also say that violence or threats of violence are not permitted in the house or on the property. They say that "violation or negligence of one of the following rules could result in termination of residency," and there are about six rules here.

I want to know, on behalf of all these people, when it is that whoever interprets this massive mess in this legislation that on the one hand, according to the government motion, you will accept that a "period of tenancy agreed to has expired," therefore—there's an agreement over here between a client and Ecuhome, for example, and in this motion, you're going to accept it. Does that mean that any other part of that agreement that's been made with Ecuhome you don't accept?



I just think it's so abhorrent to the thrust of what these kinds of care homes are about. If we're saying that there's a Mr Kendall every month or even every year, then why don't you go in and deal with that home and shut it down? But to lump organizations like the Massey Centre and Ecuhome and many of the other organizations that were represented before this committee to try to resolve the rotten operator—go in and clean out the rotten operators and deal with them.

1640

The absurdity grows when you talk about the example Mr Mammoliti gives. In fairness to him, he's trying to approach something that he knows.

Mr Owens says: "Well, you can't shield them from the big world out there. When they get out in the big world, they're going to run into their old friends. They're going to see beer and other substances available to them. They're going to see their friends using other substances." Of course they are.

The point of these programs is that we're investing money—every single person in this room is paying for these programs, and you better realize it—and we're now saying: "Oh, well, it doesn't matter if the odd person in one of those programs violates the rules in terms of substance abuse. It doesn't matter if the whole group of people who happen to be in that program at that time are affected to the degree that maybe they have to be in the program a month longer or six months longer. It doesn't matter in terms of time that they slip because of the fact that somebody's broken the rules." We all have to live by rules.

Another thing, in Ecuhome they say residents must participate in the house decisions by consensus. What's wrong with that? Why don't you leave it alone and let it work?

**Mr Owens:** What's wrong with empowerment, though?

**Mr Marland:** What we're saying is you're going to pick and choose what parts of agreements you're going to respect and what simply doesn't apply.

I'll answer your question actually, Steve. You said, "What's wrong with empowerment?" I push for empowerment. I advocate for empowerment. But that's not what we're talking about here. We're talking about empowering somebody to destroy somebody else. No, thank you. We say, "You can have four months and you can put somebody's head through the wall." Why should violence or illegal activity and substance abuse be allowed in these premises if we're investing millions and probably billions of dollars in the treatment of substance abuse through behavioral modification?

It's intense for those people, especially at the beginning of their treatment. You say you can't protect them. I agree you can't protect them from the world. They have to go out and face the world eventually, but they're not strong enough. We're talking about them when they're at their most vulnerable stage.

Apparently, putting other people at risk for the sake of one is okay with you. I'm saying that it's not okay, because if that person was in their right mind—I don't

know if any of you have gone through having a family member who's aging or has Alzheimer's. It's not dissimilar. It doesn't even have to be that elderly, unfortunately. You know that Alzheimer's patients can create hell on Earth for those families. There's no way, if that individual were well, that they would want to create the havoc in the lives of their families that they create.

This is a similar thing. We're saying these people have to be managed. Everybody in communal living has to be managed. I go back to some of the arguments I gave you this morning about personal hygiene management of blood and body fluids. We're not fooling around with stuff here; we're talking about very serious matters. My concern is that there doesn't seem to be any respect for who the operators of the program are.

Tell me how many people have been beaten to death in an Ecuhome facility or a St Vincent de Paul facility, or have been thrown out with the clothes in a garbage bag? That's where all this stuff started. We don't want garbage-bag evictions. You're going to have to tell me where the responsible operators are doing garbage-bag evictions. My first question to you is, okay, is that responsible operator getting funding from Comsoc and the Ministry of Health? That's the whole point. If we don't have control through that rein, through the funding mechanism, then we do have a big problem.

I'm simply saying that we're not talking about people who are out—sure, there are a few private facilities for those people who can afford them for substance abuse treatment, for example. I don't know of any specifically, but I know they exist. But for the most part, from the people who came before us, we're talking about publicly funded facilities, and if they're publicly funded, by golly, they have to be accountable. If it's accountable to the public, it's accountable through the government ministries that do the funding.

So don't tell me there's a problem with people who are not empowered being mistreated with a facility that's publicly funded. You can't say both those things. If they are funded, then that's where our controls should be.

I don't think they'll ever get this—

**The Vice-Chair:** Thank you very much. Mr Cordiano still, and then I do hope we can have the vote before 5 o'clock.

**Mr Cordiano:** Just let me say that this is absolutely critical in the overall legislation and the way it impacts the legislation, so I'm not too dismayed by the hour becoming late. I know we will get through the work we have to get through in the time we have scheduled for it, because if we can't deal with this and make our points on this, I think there's no point in discussing any other items in the bill. This is a fundamental, absolutely critical part of the bill that separates the view of the world the way the minister sees it and certainly the way I see it.

Quite frankly, holding out for the rights of an individual against the rights of the other individuals or the larger number of individuals who would be affected is unacceptable to me. When those individuals are at risk in a home and they're there for the kind of treatment that the program's stated intention was designed for, and allowing



for that stated intention to be fundamentally altered or threatened by the imposition of this act—the absence of the Landlord and Tenant Act has in some ways deterred people from certain kinds of behaviour. We heard this from deputants. The fact is that the threat of being removed from a program acted as a deterrent. There's no denying that. In many of these instances, the fact that you had no recourse to the Landlord and Tenant Act meant that you had to comply with the terms of the program.

As Ecuhome has pointed out to this committee, and it was alluded to by Mrs Marland earlier, they have agreements in place, and good operators are conscientious, thorough and very professional in what they do. They're not throwing people out on the street.

**Mr Owens:** Then they don't need to worry about the act, Joe.

**Mr Cordiano:** They don't need the Landlord and Tenant Act. Those people don't need the Landlord and Tenant Act, because things are operating just fine without it.

**Mr Gary Wilson:** That's scary.

**Mr Cordiano:** It's not scary. What you're trying to create is even more litigation in our society where it's not necessary, where things are operating by consensus, and that's the model that was put forward by Ecuhome. Things are operating by consensus. There is a committee that operates, there are rules and regulations that the residents themselves—

**Interjection:** Accept.

**Mr Cordiano:** —not only accept but draft, come forward with a number of recommendations that have been brought forward by residents. I think that's a model we should uphold. That's something we need more of in society, not litigation, not redressing every problem through the courts, because that's going to create an even more difficult circumstance for our society. I think we're heading down the American path when we do that. God knows they're the most litigious society in the world. Everything is fought in the courts. There's a lawsuit for everything under the sun there. Is this the road you want us to go down?

1650

I don't that we need to do that in this society. I think there are matters that can be solved, particularly within rehab centres. That's what we're talking about here. This exemption is for rehabilitation centres. Mr Mammoliti's points were well founded. I applaud him for the views he put forward. I think he did so with great honour and great honesty and great integrity, because as we heard from many of these operators, it's going to be rather difficult.

I think, quite frankly, that there hasn't been a straight-forward point of view put across at these hearings. Again I have to say to the minister that if you want to undermine the programs, if you want to dismantle them, then you're going about it the right way. If at the end of the day that was the intention of the government, to change the fundamental nature of these programs, then have the guts to bring legislation forward that says that. Do it openly, do it forwardly, do it directly and we can have a consultative process that includes everyone who's

affected by that. But to change the criteria under which these programs have to operate right from under their feet is completely undemocratic. It's like introducing retroactive legislation, which you've done already in this administration. The point is that it's unacceptable and it's undemocratic and it's going to undermine those programs. If you want to change those programs, be up front about it. Bring in legislation of a different nature, this legislation notwithstanding.

If it's a housing bill and you want to allow for people to set up operations to provide permanent housing under these sets of conditions, that is one thing and I think that's completely separate. But to take some situation that already exists, a sector like this that already exists and is functioning and meeting the needs of many people out there in our society, and to change them by taking them and pulling them along by their ears and suggesting that this is necessary now, and not allowing for them to be open and not allowing for them to understand fully the implications of what you're doing, is unacceptable. That's why this amendment speaks to that. That's why it's important to have this cutoff at 18 months.

As I said earlier, Dr Lightman, in his report, thought this was a difficult problem. He wanted it resolved by the Ministry of the Attorney General and other affected ministries, determining through a legal definition what "therapeutic and rehabilitative services" meant. You could do this through funding criteria. I think that would be much more honest and that would be much more cleanly defined, rather than this sneaky approach to undermining these centres.

Let's be honest with these centres. If you don't want them, because that's not our view, to operate in the way they have for the last number of years, then be clear about it. Bring in legislation that says: "We're not going to allow you to do this. What you've done till now was fine, thank you very much, but from now on you're not going to be allowed to have funding on this basis." Let's change the criteria. Let's do it through appropriate legislation, not this omnibus piece of legislation, which we've had to deal with under certain difficult circumstances, I might add, because we've had enormous numbers of people express an interest in coming before the committee, and rightfully so.

Throughout communities in Ontario there are many operators who are providing the kinds of services that are critical for people to recover from very difficult circumstances. Minister, this is an important area. In many communities it affects the lives not only of the people who are in those centres, but their families and the entire community. My God, I dread the fact that if these centres stop functioning in the way that they are now, we're going to have an enormous number of social ills befall us over the immediate future, until you make that appropriate transition to where you want to be, which is to delink services from housing.

I understand the direction you're going in, and perhaps another day we can examine that and determine that it is the appropriate direction to head in, but it's certainly not the appropriate mechanism or process that we're following here. That's why I'm forced to make this amendment

in order to deal with a situation that I think we can only describe as one we are trying to salvage. I think that at the end of the day your amendment does not meet the critical test I am describing here. It doesn't go as far as it needs to go. I think that for me—

**Mr Owens:** What do you mean it doesn't go?

**Mr Cordiano:** The amendment that I'm talking about refers to—

**Mr Owens:** First you say it's not necessary, then you say it doesn't go as far as it should.

**The Vice-Chair:** Order, please.

**Mr Cordiano:** It doesn't go as far as our amendment goes, which gives these centres the absolute right to evict someone because they qualify under that exemption. The amendment that has been put forward by your government, by the minister, does not allow for that to occur.

I think at the end of the day, when all is said and done, these centres will have a difficult time continuing to operate in the way they are operating because you've removed the one thing that I think they could count on, the one thing that I think a recovering alcoholic or a recovering drug addict has to comply with: the rules and the regulations and the program itself that they were admitted and entered into, an agreement with these operators, the conditions by which they agreed to be housed.

If they violate that and are a threat to the other tenants,

if they undermine the very existence of this home, then at the end of the day you have completely undermined those programs. There's no way they can recover from that. Other tenants will be understandably affected. We've even heard that some of these homes—the residents there have described the situation as one that was tense at best, and distressful in most cases, where someone who brought alcohol into a home or brought illicit drugs caused all the other tenants to go into a distressful situation. I don't think we can avoid that or we can preclude that from happening unless there is a threat of eviction—

**Mr Owens:** That means you don't need the unfettered right of kick people out, though, Joe.

**Mr Cordiano:** —which would kick in automatically. I think that an operator would be responsible for the safety and the good health of the other tenants. I don't think we could sacrifice the other people in that home because we're trying to uphold the rights of one individual over the rights of all the others to a safe, healthy program which they entered into at the very beginning. That was their understanding.

I notice it's 5 o'clock, Mr Chairman, and I would like to adjourn the debate.

**The Vice-Chair:** This committee stands adjourned until tomorrow morning at 10 o'clock.

The committee adjourned at 1659.





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Tuesday 8 March 1994

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### STANDING COMMITTEE ON GENERAL GOVERNMENT

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**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

**\*Dadamo, George** (Windsor-Sandwich ND)

Fletcher, Derek (Guelph ND)

**\*Grandmaître, Bernard** (Ottawa East/-Est L)

**\*Johnson, David** (Don Mills PC)

**\*Mammoliti, George** (Yorkview ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

**\*Wessinger, Paul** (Simcoe Centre ND)

**\*White, Drummond** (Durham Centre ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Cordiano, Joseph (Lawrence L) for Mr Sorbara

Harrington, Margaret H. (Niagara Falls ND) for Mr Dadamo

Klopp, Paul (Huron ND) for Mr Morrow

Marland, Margaret (Mississauga South/-Sud PC) for Mr Arnott

Owens, Stephen (Scarborough Centre ND) for Mr Morrow

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Fletcher

#### **Also taking part / Autres participants et participantes:**

Gigantes, Hon Evelyn, Minister of Housing

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Yurkow, Russell, legislative counsel



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## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Wednesday 9 March 1994

# Journal des débats (Hansard)

Mercredi 9 mars 1994

Standing committee on  
general government

Comité permanent des  
affaires gouvernementales

Residents' Rights Act, 1993

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
Clerk: Franco Carrozza

Président : Michael A. Brown  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Wednesday 9 March 1994

Mercredi 9 mars 1994

The committee met at 1011 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT  
DES LOIS EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Vice-Chair (Mr Hans Daigler):** We'll continue clause-by clause consideration of Bill 120.

The first item: I'd like to inform the members of the committee that substitutions for Mr Drummond White will now be accepted by the Chair as he has returned to the government caucus and I've received notification from the chief government whip in this regard.

Yesterday Mr Cordiano had the floor. I don't see him right now. It will go to Mr Owens.

**Mr Stephen Owens (Scarborough Centre):** I'll yield my time.

**Mr Bernard Grandmaître (Ottawa East):** That's very nice of Mr Owens.

**Mr George Dadamo (Windsor-Sandwich):** He's a good guy.

**Mr Grandmaître:** He's always trying to do the best.

**Mr Owens:** I would rather give them a chance to make fools of themselves.

**Mr Grandmaître:** Absolutely. The problems with this bill are numerous and I would like to highlight some of the problems, the concerns not only of the Liberal Party but my personal concerns.

We're faced with an omnibus bill, and omnibus bills, as you know, are complicated and make life for Ontarians more complicated for the simple reason that they have to look at five or six different acts, in this case five different acts, before they can get the global picture.

The first concern I would like to address is the basement apartments or accessory apartments.

**The Vice-Chair:** Mr Grandmaître, I think you should restrict yourself to comments on the amendment we have before us dealing with clause (i.1)(iii).

**Mr Owens:** Is Ben talking about the time he was minister again, reliving those days with a car in 1989?

**Mr Grandmaître:** The good old days.

**Mr Gary Wilson (Kingston and The Islands):** The opening statement was yesterday.

**The Vice-Chair:** I think this bodes well for the day. Everybody is in good humour. Did you want to make any other comments on the amendment that's before us?

**Mr Grandmaître:** It's not everybody who's in good humour. They won't let me speak.

On the amendment and on behalf of my critic, Joe Cordiano, who will be about 10 minutes late, Mr Chair—

**Mr Owens:** You're not supposed to note absences of MPPs.

**Mr Grandmaître:** I'm being interfered with. Maybe I should start all over again.

**Mr David Johnson (Don Mills):** I want to hear about basement apartments.

**Mr Grandmaître:** At least the Tories want to hear about the basement apartments, and I think it's very important. You should let me comment on the proposed law which will legalize firetraps.

**The Vice-Chair:** Mr Grandmaître, you know we're dealing with the amendment that's moved by the Liberal Party, if you would restrict your comments to that amendment, please.

**Mr Grandmaître:** Mr Cordiano tried on two different occasions yesterday to bring in an amendment by inserting after "rehabilitative" in the third line, "respite and convalescent care." We're adamant that a better definition of rehabilitative and respite and convalescent homes—

*Interjections.*

**Mr Grandmaître:** Nobody's listening, now that I'm talking to the amendment. Now that our Housing critic is in place—

**Mr David Johnson:** I thought you said Housing critter.

**Mr Grandmaître:** Not a quitter. We're adamant that the definition of rehabilitative and respite and convalescent care homes be added to this bill. I know the minister told us yesterday that it could be part of the new regulations, but we don't have the regulations before us, so it's very difficult for us to accept the bill as is without having all the facts before us.

Also, the minister advised us yesterday that people who would not be cared for or who don't seem to be cared for in the bill would be protected by the Substitute Decisions Act. As you know, the Substitute Decisions Act is not before us. It's not even passed yet.

All these things, and also the basement apartments, are of great concern to this party. We would like the ministry to tell us what its plans are: How will it improve the rehabilitative definition and also the respite and convales-

cent care definition? It should be included in the bill so we can go on and look at every clause of this bill by tomorrow, if we have a chance to go through every clause. The reason it seems like we're stalling is very simple: We don't have all the facts before us and it's very difficult to envisage the global picture of this bill, a very important bill which will affect the lives of thousands and thousands of people in Ontario.

For that reason, I don't think the opposition, not that we're mean about it, can do a good job except to vote against Bill 120 in its present form, for the simple reason that the government is not willing to listen to the people who came before us and highlighted very clearly what the problems would be for them to continue to operate.

I'll give you an example. The Massey Centre again today provided us with a letter saying it would make it impossible for the centre to continue its work. It's very important that we should listen not only to the people operating the Massey Centre but all the organizations that came before this committee telling us that the bill is not clear and that they would like to see amendments. Knowing the government is not willing to move on any of the opposition's amendments makes it difficult for us to really have a global feeling for this bill, and we will continue to oppose this bill until the government is ready and willing to accept some of our amendments.

**Mrs Margaret Marland (Mississauga South):** I received a letter just yesterday—actually, I'm copied on this letter; it is to Karen Haslam—from the Emily Murphy Second Stage Residences. They happen to be on Barron Street in Stratford. Their plea on behalf of second-stage housing and their concerns about limiting the amount of time are put very succinctly. I want to read the committee one short paragraph, because this is what we're talking about in terms of the independence of these kinds of organizations. As I said yesterday, and I'll say it again, they are funded by the public sector so there is a regulatory control of these facilities. Why they have to go under another statute, go under that particular statute of the LTA, is beyond me.

1020

"Women who have suffered long periods of verbal, psychological, emotional and physical abuse at the hands of someone who professes to 'love' them, and who may actually love them, need a safe, secure, protected time when they come out of the relationship to reflect, to heal, both emotionally and physically, and to plan. As second-stage housing is now constituted, we can offer them this time and much-needed protection."

That's the end of my quote. I'll give that to Hansard so they've got the actual document.

The other point I want to make, which just adds more weight to the argument I made yesterday about who funds these facilities we're talking about, is a letter over the signature of Bishop Sotirios, who is the head of the Greek Orthodox Church in Canada. In his letter, he says:

"After consultation with our appointed Ecuhome board members, I have reviewed the serious matters that currently threaten Ecuhome's housing. Our unique joint venture has enjoyed a successful nine-year history,

supported by legal agreements with the ministries of Community and Social Services and Housing."

That letter is accompanied by letters with very similar wording from the Right Reverend Terence Finlay, Bishop of Toronto, the Anglican Church; also Dr Helga Kutz-Harder, who is the executive secretary of the United Church of Canada; and the Reverend Briant Cullinane, who is the chancellor of the Archdiocese of Toronto, which I presume is the Roman Catholic Church.

Here we have the four major churches in Canada joyfully celebrating the fact that they have this joint venture with the ministries of Community and Social Services and Housing and have had it for nine years. They're saying it works, and please leave it operating the way it is because it works.

There is a fifth letter. Actually, I can't read the signatures on this letter, but I'm happy to share it with any member of the committee. Obviously, this is a letter written by someone who is a resident in one of these homes. I'll just read you one paragraph:

"Three weeks ago, one of my room-mates who had seven months sober, relapsed. I watched four staff members from Ecuhome, including an executive director, help this person find his way into detox, and made special arrangements for him to pay the rent that he was short. I really was quite surprised at the extent they were willing to go to help.

"Last week in my house, we were having a problem dealing with a room-mate that was borderline, functioning at an independent level. Staff had stayed involved with us to help us cope until such time as alternative arrangements could be made. Without staff intervention, that situation would have been unbearable.

"I know of another situation with a friend of mine that's in recovery and lives in Ecuhome. He relapsed for two days and caused some problems at his house. Staff approached another house with full disclosure of the situation and asked them to give him a second chance. They agreed to take him and the jury is still out, but the point is pretty clear. Ecuhome staff is very involved with us and does go to great lengths to help wherever needed.

"I cannot imagine the problems that communal living without staff counselling would have, or if it would even be possible."

What we're not hearing here is that if these programs are destroyed by this bill, who is going to help these people who are presently looked after in these programs? It is a very serious situation.

Every day in my office, and I'm sure it's the same in all of yours, we receive calls from people who are being hurt by the cutbacks the government is making. If we are in this situation where these very vulnerable, special-needs people are now able to benefit from these residential programs, and there are the controls—here's a situation where in one house that individual wasn't compatible, so he or she was moved to another house in the same organization. It's absolutely ludicrous not to let staff do that for the benefit of that individual. They're not putting them out on the street. That's not the risk. That's not why they need the Landlord and Tenant Act. They're



still being nurtured and protected and given the services they need because they are vulnerable, but in another house within the same organization. That kind of lateral move has to be within the power of the staff and the people who provide these services.

I come back to the fact that everybody in this room pays for these services because these are government services. When you destroy these programs, as these service providers have told us—the people who have been talking to us aren't bureaucrats in some ivory tower. They aren't politicians who are trying to do it for political reasons. They're not people who have a political axe to grind.

The chairman of the board of Ecuhome, who came to present, is the president of a large corporation in Canada. Do you really think he needs to be involved as president of the board of that organization if he didn't want to do it? There's no political gain for him. There sure as heck is no business gain for him. You have to ask, why do those people do those voluntary jobs? Why do they take on those voluntary positions? They do it because they believe in the organization and they believe in what the organization is doing for individuals. Obviously, governments in the past have also believed in them, and the current government believes in them because it continues to fund them.

1030

What are we saying here? "Oh, there's a problem." Well, the problem doesn't exist in those government-funded homes. If you want to put people under the protection of the Landlord and Tenant Act, do it where there is no control; don't do it to every organization and every publicly funded home. If you're worried about abuses where there are no licences and no regulations, have this bill say that, have it address those care facilities, those care homes, where there are no controls. But it's ludicrous to have this bill apply to those facilities where there are independent boards and there is direct funding from the Ministry of Health and the Ministry of Community and Social Services and, in this case apparently, the Ministry of Housing, whose bill this is. It just doesn't make sense.

If you vote to put these organizations out of business, it's going to be your responsibility to say to those people who no longer have that service available to them, that housing available, the counselling, the rehabilitation, every part of that program available to them—it's going to be your responsibility to deal with the fact that the program no longer exists. I wouldn't want to be the person who receives that phone call. It's bad enough that we have huge waiting lists, but if we kill existing programs, boy, that would be the worst thing we could possibly do.

I don't really think there's any point in us having public meetings on legislation and inviting the public to come and talk to a committee of the Legislature about what the impact of that legislation is unless we're going to listen. These organizations have been very clear in what they've said to us, and we can't have this bill kill those programs.

**The Vice-Chair:** Obviously, this is an important

section because, as was pointed out yesterday, it determines many other aspects of the bill, so I will allow a few more comments in this regard, but I would remind members that we've had quite some time on this particular amendment and we have many more to come still.

**Mr David Johnson:** There are just a couple of other deputations that caught my eye, and I thought they should be mentioned at this point. We've been talking mostly about homes with rehabilitative or therapeutic aspects to them, but going through my files I noticed a letter from the Honourable Stanley Knowles. The Honourable Stanley Knowles wrote to the Honourable Bob Rae on February 7 of this year. Mr Knowles is a resident of Rideau Place in Ottawa, a retirement home in Ottawa. He has expressed his concern with regard to Bill 120.

**Mr Owens:** A gentleman of the best substance.

**Mr David Johnson:** Absolutely, and a gentleman we all respect, I'm sure. He has expressed concerns with regard to the impact of Bill 120 on retirement homes. He says:

"I am very happy here and am very concerned about the Ontario government Bill 120 which proposes to make retirement homes such as Rideau Place subject to housing legislation, specifically rent control and the Landlord and Tenant Act.

"For the past few years Rideau Place and other retirement homes have been trying to warn the government that putting such retirement homes under housing legislation would cause serious problems in the day-to-day running of such retirement homes and for the residents living in them.

"The government, however, has ignored these warnings and the indications are that Bill 120 may become law this spring.

"Rideau Place has submitted a brief to the Honourable Evelyn Gigantes, Minister of Housing, and to the standing committee on government affairs on Bill 120 and I am very anxious for you to have a copy of this brief which I am enclosing with this letter. I urge you to read it carefully and to give it your particular attention.

"I am aware that there are a great many seniors in Ontario who are living miserable, insecure lives in boarding- and rooming-houses who have no protection whatever from greedy, unscrupulous landlords and that Bill 120 will give them some security. Many of these people are completely dependent on their supplemented old age pensions and are paying far too much for the accommodations they have. I cannot see any reason for including Rideau Place and other retirement homes"—

**The Vice-Chair:** We have all seen it.

**Mr David Johnson:** I just thought that should be read into the record because he's saying there need to be exemptions from the Landlord and Tenant Act, and that's the substance of this amendment that's before us, exemptions. It's Mr Knowles's strong opinion that Rideau Place be one of those facilities that should have the exemption.

We also received a deputation from Anglican Houses, and they express the problem we will be facing. They provide services, and some of the people they serve, they indicate in their brief, are people who have a history of

destroying property, violence, suicide attempts, theft, and disruption. They attempt to provide housing program, where there's safety, where the residents have a say in their lives and housing. They set the rules and the residents are involved in settling disputes, so the Anglican Houses have an environment right now where if there is a problem, the residents themselves have a hand in sorting out the problems. They think this is a more than adequate resolution mechanism and that the imposition of Bill 120 will cause problems.

1040

Specifically, they point out the problem of congregate living, where people are living together and sharing facilities. This is a thread through a lot of the presentations we have heard. We've talked a great deal about programs having therapy, programs having a rehabilitative nature, but another factor here is where people are living together. Most of the deputants I have heard have said that tenants living in self-contained units should have the protection of the Landlord and Tenant Act, but when you are dealing with a situation where there's congregate living, where people are sharing the kitchen, where people are sharing the washrooms, where people are sharing a living room area, this is of a different nature.

It puzzles me why the government hasn't made an attempt to look at that, because we have had several groups now come to us and say that if it's a self-contained unit, it should be the Landlord and Tenant Act, and if it's a congregate living situation, there should at least be a fast-track mechanism, because you've got people who can't get away from a problem if they're being harassed, if they're being bothered or if somebody is doing something that would jeopardize the rehabilitative program or the therapeutic program. They can't get away from these people because they're living together. At least look at the possibility of a fast-track mechanism rather than applying the full Landlord and Tenant Act. Indeed, that's what the Anglican Houses are requesting. They are requesting that a fast-track mechanism such as Dr Lightman has proposed be looked at.

Personally, I don't think there is a serious investigation of that possibility, and that puzzles me. I would be much happier if somebody said: "We've looked at it. Here are some alternatives of how a fast-track mechanism could work, but we have concluded that there are various problems with each one of them." We don't have any evidence of that happening. The only evidence we have is that we decided right from the beginning, notwithstanding that there is a congregate living situation, notwithstanding that there would be therapy, rehabilitation programs or whatever, that the Landlord and Tenant Act is going to be applied in each and every circumstance, and that's it.

The exemptions, even with the amendment that's before us today from the government, will not help many of these programs. The Anglican Houses say: "In the absence of a fast-track system, we risk jeopardizing the safety and peaceful enjoyment of the resident group as a whole in exchange for the right of the threatening individual to maintain their housing during the eviction process." So the whole group is at risk, but the one

individual is being protected.

I'm just going to leave it at that, because I guess this has all been said before. My one final closing comment is that it's interesting that the Anglican Houses are supported in a letter from an administrator of the Ministry of Health. If you look on the back of their brief, one of the administrators of the Ministry of Health has said:

"In order to achieve the flexibility which you"—Anglican Houses—"need to deliver the full benefit of your treatment program, we agree with your concerns...." Here's a Ministry of Health letter.

**Mrs Marland:** Isn't that interesting. I wish we'd had that when they were here. Boy, that's significant.

**Mr David Johnson:** It's signed Ronald G. Ballantyne, administrator, Ministry of Health, Whitby, Ontario. He says, "we agree with your concerns about being required to have your program come under the jurisdiction of the Landlord and Tenant Act." Here it is in black and white.

**Mrs Marland:** That poor guy will never get a promotion.

**Mr David Johnson:** Well, sorry to put him on the spot, but there it is in black and white. The Ministry of Health agrees with Anglican Houses that they should not come under the Landlord and Tenant Act.

**Mrs Marland:** We'll look after him, one of us.

**Mr David Johnson:** I will leave it at that.

**The Vice-Chair:** As I don't have anyone else on the speakers' list, I think we're ready to call the question on the Liberal amendment to subsection 1(3).

**Mrs Marland:** Could we have it read, please?

**Mr Grandmaitre:** It's been a long time.

**The Vice-Chair:** Does the mover want to read it?

**Mr Joseph Cordiano (Lawrence):** I move that subclause (i.1)(iii) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by striking out "six" in the fifth line and inserting "eighteen."

**Mrs Marland:** Recorded vote, Mr Chairman.

**The Vice-Chair:** A recorded vote. All in favour?

**Ayes**

Cordiano, Grandmaitre, Johnson (Don Mills), Mammoliti, Marland, Morin.

**The Vice-Chair:** Against?

**Nays**

Dadamo, Haeck, Owens, Wessenger, Wilson (Kingston and The Islands).

**The Vice-Chair:** The amendment carries.

The next amendment is a Conservative motion.

**Mrs Marland:** I move that subclause (i.1)(iii) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by striking out "six" in the fifth line and substituting "twenty-four."

**The Vice-Chair:** Did you want to speak to the amendment?

**Mrs Marland:** I may after some other comments. At this point, I will let someone else speak.

**Mr George Mammoliti (Yorkview):** I'd like to point



out that I have the exact same amendment, but in view of the discussion that took place yesterday and in view of the amendment that just passed, because the average stay in most of these homes is 18 months and that information has been consistent throughout the hearings, I think it would be appropriate for us to just move on and not deal with the 24. I'd be willing to do that with my motion.

**The Vice-Chair:** In other words, you're withdrawing your own amendment? You haven't moved it yet.

**Mr Owens:** He's withdrawing it; that's what I heard.

**Mrs Marland:** We heard from a number of programs, certainly the Massey Centre, say sometimes three or three and a half years. I think we would be much smarter to respect the program administrators and the designers of those programs to make decisions in the best interest of their clients. I reiterate my comments about who funds those programs. If there's a problem with those programs, let the government deal with that problem through its funding arm: the Ministry of Health, the Ministry of Community and Social Services and the Ministry of Housing.

Obviously, I'm in favour of Mr Cordiano's motion for 18 months because that's an improvement on six, but I would like my motion for 24 to pass because it just improves the scope for those service providers, and it doesn't deter the control of government, because the control is there through the funding if it doesn't approve of whatever any individual service provider is doing with its clients. There are those controls. I won't repeat that argument again. It's been said very loud and clear by deputations before this committee.

**Mr Cordiano:** I feel I should say something about this, and this does not come from just an interest to be different. I know there are some genuine concerns about this 24-month provision Mrs Marland has put forward, and I can appreciate that.

At the end of the day, I think we compromise regardless of what we do, but our compromise at least covers the concerns we heard throughout the committee hearings from most of the deputants. Whether it's 18 months or 24 months, it's rather difficult to conclude that one is more precise or more correct than the other.

But by and large, we heard that 18 months was the average and that the majority of deputants who came before us could live with 18 months. Unfortunately, I cannot support the 24 months because it just so happens that we passed the 18-month clause, and this would negate the effects of the 18-month provision, which I feel is sufficient to cover those concerns. Unfortunately, I won't be supporting the 24-month clause.

**Mrs Marland:** You didn't tell me that.

**Mr David Johnson:** I'm just looking through my material to try to find the instances, but it's obvious that the 18 months is far superior to the six months, and that will be of great assistance to a number of organizations.

But at the same time, we did have deputations, and I think Eden Community House was one of them—I can't find their brief, but I believe Eden Community House said their average stay was 2.4 years. I think there are going to be some programs tailored now to make sure

they come under the 18 months, if that's what carries at the end of the day. If the 24 months were passed, I suspect programs at Eden Community House, which has a slightly longer duration, would tailor it to come under the two years.

In the brief from the Scarborough General Hospital, they indicate that their average length of stay was about a year. However, "other such programs have a 24-month average length of stay," to use their exact words. They didn't quote what they were exactly, but they say there are other programs and they do have a two-year length of stay.

**1050**

The Society of St Vincent de Paul said that their average stay was somewhere between one and two years. You could average that off at 18 months or that could be 19 months or 20 months or 16 months or whatever, but chances are that now they'll have to look at their program and make sure the average stay is under the year and a half so they can enjoy the privileges of being exempt from the Landlord and Tenant Act. But if the two years was in place, it would allow a program like the St Vincent de Paul to be more flexible.

At the Massey Centre, we know that phase 3 for the young ladies who need extra assistance is a two-year program in itself. If they've come in a little bit earlier, into the phase 1 or phase 2 of the Massey Centre program, their stay would be even longer than the two years.

There certainly were a number of groups that indicated the two years would be of great assistance to them, and that's why we put this forward. We're happy with the 18 months, but we'd be only fully happy with the 24 months. I certainly will be supporting the two years.

**The Vice-Chair:** Are we ready to vote now? Mrs Marland has moved that subclause (i.1)(iii) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by striking out "six" in the fifth line and substituting "twenty-four."

**Mrs Marland:** Recorded vote.

**The Vice-Chair:** All in favour?

**Ayes**

Johnson (Don Mills), Marland.

**The Vice-Chair:** Opposed?

**Nays**

Cordiano, Dadamo, Grandmaitre, Haeck, Mammoliti, Owens, Wessinger, Wilson (Kingston and The Islands).

**The Vice-Chair:** The amendment is lost.

Mr Mammoliti, I understand you are not putting forward your amendment.

**Mr Mammoliti:** No. In reference to some of the discussion that took place yesterday, the average stay in these places is 18 months, and I was quite willing, as members know, to amend mine to read 18 months.

**The Vice-Chair:** You're withdrawing your amendment.

**Mr Mammoliti:** I haven't put it forward, so I'm not withdrawing it.

**The Vice-Chair:** The next amendment I have is a

Conservative motion. Frankly, it's out of order.

**Mrs Marland:** You want me to read it and then you're going to say it's out of order?

**The Vice-Chair:** It's up to you. If you want to not move it—

**Mrs Marland:** No, I'll move it.

I move that clause (i.1) of the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by striking out subclauses (ii) and (iii).

**The Vice-Chair:** I'm advised that this is out of order and that the proper procedure would be to vote against the section.

The next motion I have in front of me is a motion by Mr Mammoliti.

**Mrs Marland:** Are we going to vote against it?

**The Vice-Chair:** Against what?

**Mrs Marland:** You said it would be in order to vote against the clause.

**The Vice-Chair:** I'm sorry, Mrs Marland. You are correct. Shall clause 1(3)(iii), as amended, carry? All those in favour? All opposed? Carried.

**Mr Mammoliti:** I move that the definition of "residential premises" as set out in subsection 1(3) of the bill be amended by adding the following clause:

"(i.2) a residential unit, as defined in section 1 of the Planning Act, in a detached house, semi-detached house or row house if there is a written contract between the landlord and the tenant entered into after the day this clause comes into force."

**The Vice-Chair:** To clarify, this motion is the one labelled "A." It replaces what you had in your package. Mr Mammoliti, do you want to speak to your motion?

**Mr Paul Wessinger (Simcoe Centre):** Is this in order?

**The Vice-Chair:** I am advised that it is.

**Mr Wessinger:** On a point of order, Mr Chair: I don't believe it is in order, on the basis that it is beyond the scope of the bill because it changes the rights with respect to apartments that presently exist. It doesn't relate to the question of the creation of accessory apartments.

**The Vice-Chair:** Legal advisers sometimes have different opinions. However, the advice I have received, which has been verified, confirms that it is in order.

**Mr Mammoliti:** Just in conclusion to that, there is a slight amendment to what I proposed yesterday, a grandfather clause that's now attached to this that would actually do the opposite of what Mr Wessinger is saying. That's a legal opinion I got as well, so it does protect the tenants who currently reap those benefits.

**Mrs Marland:** What benefits?

**Mr Mammoliti:** The benefits Mr Wessinger is talking about.

**Mr Owens:** Do we not have the complete amendment? Is that what I am to understand, that there is more language to this?

**Mr Mammoliti:** No, that's it.

**The Vice-Chair:** We have an amendment that's been

distributed and it's been read into the record. That's the one we're discussing and will be voting on.

**Mr David Johnson:** I have a question to the author. I just want to understand it, as it's just been put in front of us. Perhaps you could give me a few words about the intent of this resolution.

**Mr Mammoliti:** I'd be prepared to do that if we're off the point of order.

**The Vice-Chair:** We are not on a point of order. We are in the debate.

**Mr Owens:** I still don't think it's in order.

**Mrs Marland:** Excuse me. How are we debating it if it's not a legal motion?

**The Vice-Chair:** Mrs Marland, I have already ruled that it is clearly in order. We are in the debate on the amendment. Mr Mammoliti has spoken to his motion and now Mr Johnson has the floor.

**Mrs Marland:** On a point of order, Mr Chair: Did legislative counsel give you the advice that this was in order?

**The Vice-Chair:** The Chairman has received advice and the matter is in order. That's about the third time I've said that. If you want to challenge the—

**Mrs Marland:** Could I ask legislative counsel what his opinion is?

**Mr Russell Yurkow:** The advice to the Chair would come from the clerk and not from legislative counsel. I think my view on this should be irrelevant. Traditionally, the Chair relies on the clerk for advice on procedural matters.

**Mr David Johnson:** I'd still like a bit of clarification from the author of this amendment, if he could just say a few words about the intent of this amendment.

*Interjections.*

**The Vice-Chair:** Mr Johnson has the floor, unless there is a point of order.

**Mr Owens:** I think we're still working our way through determining whether we are dealing with the motion. What I was going to suggest—

**The Vice-Chair:** I've already clearly established that the motion is in order. I will not entertain any further questions with regard to that ruling.

1100

**Mr Cordiano:** On a point of order, Mr Chairman, and this is very critical: We want to ensure that whatever we vote on is in order, because after we hold the vote—

**The Vice-Chair:** I have already ruled that the motion is in order. We're debating the motion now.

**Mr Cordiano:** Yes, but I want to know that there aren't going to be legal challenges put forward after this is passed.

**The Vice-Chair:** Mr Cordiano, you're questioning the ruling of the Chair.

**Mr Cordiano:** No, I would like to get legislative counsel's opinion on that.

**The Vice-Chair:** Mr Cordiano, I already advised the committee that the motion is in order according to the advice the Chair has received. Mr Johnson has the floor.



**Mr David Johnson:** I'm looking for a simple clarification from the author, what his intent was in putting this amendment forward, just to clarify in my own mind. I wonder if he would say a few words. He said he'd be happy to do that.

**Mr Mammoliti:** During the deliberations we heard from a number of individuals who have concerns about detached, semidetached or row houses, the small landlord issue, as I like to put it, that mom-and-pop operation that exists now. As you know, there are many thousand illegal apartments out there. This does not stop the bill from going forward. I agree with the bill. All this does, and we've heard the recommendations from a number of people who have come forward, is that after the bill passes it gives the option to those who have at that point legal apartments to sit down with their tenants and create a contract, a mutual contract that would satisfy both of them. If they choose not to, the tenants who live there, after this is passed, would fall under the Landlord and Tenant Act. What this does is create an option for the tenants and the landlords of those small mom-and-pop operations that currently exist.

**Mr David Johnson:** If the amendment as passed and was legal, in the sense that it stood up, if I had a house and created an accessory apartment in that house and entered into a contract with the tenant coming into, let's say, a basement apartment in that house, the Landlord and Tenant Act would not apply; my contract with the tenant would apply.

**Mr Mammoliti:** Yes, that's my understanding. I verified that with legal after it was written and they give me that assurance. At the same time, those that currently exist, in those municipalities that might have those options available to those who have basement apartments and are subject to the Landlord and Tenant Act, will not be affected in any way. This doesn't affect them.

**Mr David Johnson:** Presumably, in that contract I drew up with the tenant, if there were certain problems beyond what was contemplated in the Landlord and Tenant Act I could include certain provisions for eviction, for example—could I?—that the tenant would say, "All right, I agree to those reasons," whatever they are.

**Mr Mammoliti:** You heard some of the submissions from some of the deputants who have talked very clearly about: What are you going to do with the existing illegal apartments at this point once they become legal? What option does that landlord have? The bill as it stands now doesn't give those landlords any options. They have to take the tenants as they are. They can't say, "See you later." This at least gives them an opportunity to sit down with those tenants and come up with some sort of agreement. If they choose not to, they've got a choice. The tenant can move, or the landlord has to accept the fact that the Landlord and Tenant Act at that point would take effect.

**Mr David Johnson:** I was under the impression that the Landlord and Tenant Act was supreme and that you couldn't draw up a contract that would contravene the Landlord and Tenant Act, let's say.

**Mr Owens:** You can't take rights away. You can't ask people to sign away their rights.

**Mr David Johnson:** I'm being advised by your colleague over there that you can't take rights away.

**Mr Mammoliti:** No, this doesn't take rights away. This actually gives those tenants who currently exist in some of these illegal apartments more rights, in that either they're going to be subject to the Landlord and Tenant Act or they're going to have a lease that they probably have never had or a contract set up that they probably have never had.

**Mr David Johnson:** So you view this as giving the tenants more rights. Some of the deputations we heard—I think of your friend Mayor Lastman, who made a deputation saying that if the landlord and the tenant couldn't get along in the house and somebody had to move, in his view it shouldn't be the owner of the property who would have to move, that it should be the tenant. If he were to look at this, he might wonder, does this give the landlord more rights to deal with circumstances? Given that we're not talking about a big landlord here with 250 units in an apartment building, but about a little guy—or little girl, one or the other—who happens to own a house and has rented out the apartment, and is not sophisticated with regard to landlords' issues and there may be circumstances that come up, will this be of any assistance beyond the Landlord and Tenant Act, in your view, to the landlord, to the owner of the house?

**Mr Mammoliti:** Yes, this will give the option. This amendment is a middle ground for a lot of those concerns that have been raised. This will not only give tenants more rights than they currently have, but it will also give the landlords more rights than they currently have.

**The Vice-Chair:** Mrs Marland, you're next on the list, and I have a long list of speakers.

**Mr Cordiano:** We should probably rotate, Mr Chair. We used to follow that system. It evens the time out.

**The Vice-Chair:** I agree that we should try to keep the interventions to a relatively reasonable time so we can rotate.

**Mr Cordiano:** Go ahead.

**Mrs Marland:** After voting against my last motion, Mr Cordiano, I really appreciate your letting me speak.

This is a tough motion for me, no matter what, because I'm not an advocate for basement apartments, as you know. Not being an advocate for basement apartments, I have difficulty dealing with a motion that addresses them in any way.

Maybe leg counsel can answer this. I'm not clear what the role of legislative counsel is to a committee. Is it only in the technical drafting of motions? You're not here to give us legal advice, are you? Or can you give us a legal interpretation of what is being presented and what the bill says?

**Mr Yurkow:** No, I'm here for the technical aspects of the drafting and not to give legal advice. Things like out-of-order motions, procedural things, are within the ambit of the clerk.

1110

**Mrs Marland:** But it is within your responsibility if I ask you whether, if this bill goes through as it is,

unamended—it's difficult, because we're dealing with a definition here at the front end of the bill but we haven't really got into the bill where we're discussing basement apartments. I realize why we have to deal with the definition, because that's where it is in the bill and that's why we're dealing with it now.

When this bill is proclaimed, do all the existing basement apartments—and here we have another little complexity, because in the city of Toronto there are legal basement apartments, but I don't think any of the other municipalities have legal basement apartments. The city of Toronto is in a different situation as opposed to the other municipalities, like my own, Mississauga, for example. If I'm a landlord with a basement apartment today that's illegal, will I automatically be under the Landlord and Tenant Act with my existing tenant once this bill is passed?

**Mr Yurkow:** I can tell you, and I think it's within my mandate, what this particular amendment does.

**Mrs Marland:** Could you answer my question first?

**Mr Yurkow:** Try your question again, please.

**Mrs Marland:** I have my little bungalow and I have my tenant downstairs and it's an illegal apartment today in my municipality, because my municipality doesn't permit second living units within a single-family home, so I've got this illegal tenant downstairs. This bill is proclaimed tomorrow. Am I automatically under the Landlord and Tenant Act because I today have somebody who is a tenant, albeit in an illegal apartment?

**Mr Yurkow:** The accessory basement apartments, as they're called, enter into the bill only because there is an amendment to the Planning Act which allows the Planning Act basically to include accessory or basement apartments. Your question is, if you have an illegal apartment—

**The Vice-Chair:** That would be a good question to ask legal counsel for the Ministry of Housing.

**Mrs Marland:** Michael, you're going to get on Hansard.

**Mr Michael Lyle:** My name is Michael Lyle. I'm legal counsel with the Ministry of Housing, and I've just been handed a copy of this motion.

**Mrs Marland:** My question isn't about this motion, not at this point. Today I have an illegal basement apartment in my house. This is fictitious, this story, for those of you who start to panic, before you run out and phone the Toronto Star. When this bill is proclaimed, will I as a landlord, and will my tenant, immediately on proclamation of this bill be automatically under the Landlord and Tenant Act?

**Mr Lyle:** Yes, you will.

**Mrs Marland:** Now, if I'm in the city of Toronto and today I have a legal basement apartment—

**Mr Lyle:** Then clearly you are currently under the Landlord and Tenant Act.

**Mrs Marland:** I'm currently under the LTA. Okay.

**The Vice-Chair:** It's still to the amendment from Mr Mammoliti.

**Mrs Marland:** Yes. Now, if Mr Mammoliti's amend-

ment were passed, because it's in this bill it would then be part of this bill. Would it then exempt those landlords and tenants who have a contract, which is what his amendment speaks to?

**Mr Grandmaître:** Will the contract supersede the LTA?

**Mr Lyle:** It's not so much a question of will the contract supersede the LTA, but there will be a specific exemption that in this circumstance that particular unit will be exempt from the Landlord and Tenant Act.

**Mr Wessenger:** I still think this motion is out of order; however, I'm going to speak to what it means. If you read this motion it makes a substantial change in the Landlord and Tenant Act, because in effect it creates the right to opt out or to contract out of the Landlord and Tenant Act with respect to the classification of a unit.

For instance, if you rent a whole house you can then contract out of the LTA. That house is not subject to the Landlord and Tenant Act if you have a written contract. If you rent a semidetached house, the same thing: A whole semidetached house is out of the provisions of the Landlord and Tenant Act. If you rent a row house you're out of the provisions of the Landlord and Tenant Act. In effect, we're allowing any type of rental unit—

**Mrs Marland:** It doesn't say that.

**Mr Wessenger:** Yes, that's what it says.

**Mrs Marland:** It says "in a."

**Mr Wessenger:** It says: "residential unit...in a detached house." It can either be a unit in, or it can be the whole house.

**Mrs Marland:** It doesn't say that.

**Mr Wessenger:** It does say that, in my opinion. If you read the definitions, in effect we're taking a whole class of housing out of the protection of the Landlord and Tenant Act. That is a substantial change in the law. We're in effect rewriting the whole landlord and tenant law in this province with this clause by saying that from now on we're only going to have protection for tenants under the Landlord and Tenant Act if they live in apartment buildings. Everybody else can contract out of the Landlord and Tenant Act. That's just an incredible change and I'm surprised, really, that Mr Mammoliti would move such a major change in the Landlord and Tenant Act to change the whole structure.

**Mrs Marland:** On a point of order, Mr Chairman. This is why you wanted to be Vice-Chair.

**The Vice-Chair:** That's what I get paid for.

**Mrs Marland:** Is it in order for Mr Wessenger to read something that isn't in the motion?

**The Vice-Chair:** Mr Wessenger has the floor and he clearly is trying to make an argument, which is very much in order.

**Mr Grandmaître:** On a point of order, Mr Chair: While Mr Wessenger was giving us his interpretation of the amendment, legal counsel was shaking his head, saying no.

**The Vice-Chair:** Sorry, that's not a point of order. Mr Wessenger has the floor. Could we please follow the normal procedures of the committee and give those



speakers who wish to speak an opportunity to put their comments on the record?

**Mr Wessenger:** If you look at the definition in the act, it defines "residential unit," and it says "means a unit that consists of a self-contained set of rooms located in a building or structure." I would suggest that the whole structure is a set of rooms contained in a building, so clearly it would cover the situation of the whole building as well as the situation of a section of the building that's contained.

In my opinion, this would deal not only with the situation Mr Mammoliti suggested he was dealing with—I think Mr Mammoliti's intention was to say that any time you had a house that was divided into two units, that would not be under the protection of the Landlord and Tenant Act; any time you had a semidetached house divided into two units, that would not be under the protection of the Landlord and Tenant Act. That was his intention, but I would suggest that the legal effect of what he's done goes even beyond that, and I think his is a serious enough change, making legal units contained in existing buildings outside the Landlord and Tenant Act.

**Mrs Marland:** Don't worry, George. You'll be the only one re-elected.

**Mr Wessenger:** This is the most major change I've ever seen with respect to the Landlord and Tenant Act. It's just incredible. I don't think even the other members of this committee would be prepared to go so far as to take LTA protection away from existing units. It does affect existing rights. It's quite true that somebody who is in a premises now will not be affected by Mr Mammoliti's motion, but any future tenant coming into any of those premises will not have the benefit of the Landlord and Tenant Act. For all those reasons, I think this is beyond the scope of the bill. I'll leave it at that.

1120

**Mr Owens:** I want to associate myself with my colleague Mr Wessenger's comments wholly, including his comments with respect to whether this motion is in order. I don't believe it is.

**The Vice-Chair:** Could I have your attention, please? I will not entertain again any comments with regard to the ruling of the Chair. I've said that several times now. I have clearly given the ruling on that. Otherwise, you're challenging the authority of the Chair.

**Mr Owens:** Anyway, in terms of the motion itself, this does absolutely nothing to enhance the quality of the bill. It is with a certain level of dismay that I find myself arguing this particular kind of motion on my side of the committee, but politics is a weird and sometimes strange game, so we have to do what we have to do.

**Mrs Marland:** Like the accord in 1985. That was pretty weird.

**Mr Owens:** If you talk to the housing advocates about this particular issue, I think the word "concerned" does not express the level of outrage deeply enough. There's no misunderstanding that this particular section, if passed, will do nothing more than to strip rights from tenants who currently enjoy these rights.

I'm certainly not a lawyer like Mr Wessenger, but I

don't know of any judge or any arbitrator, in my experience, who has allowed anyone to enter into an agreement of any kind that has allowed them to opt out or to sign away their rights. It just has not happened in my experience.

When asked what the remedy is for the breach of this contract by either party, the only answer I've heard to date is that you go to court. If your concern is with respect to the "small" landlord as opposed to the "large" landlord, this particular motion does absolutely nothing to address the concerns you feel are out there, as the mover of the motion. You still end up in court. You end up in a different court and you end up with higher costs, but you still end up in court. If the concern is that the cost is onerous with respect to the "small" landlord, I think that is misguided. In terms of the kinds of time lines it takes to evict a problematic tenant, those time lines are clearly there. There are resources available to the "smaller" landlord that they can access.

To allow a motion like this is to say to a large number of constituents in my riding, "While you've had these rights for a significant period, and that while our party was in opposition we fought hard to have a strong Rent Control Act but we got rent review from the Liberals"—we've been on record as being strong tenant activists. I don't think this motion does the history of our commitment to the tenant movement any justice. As I say, I find it strange that I'm having to argue a motion like this on my side of the table, but I want to make it clear that I am absolutely, in no way, shape or form, prepared to support this amendment and certainly hope my colleagues on both sides of this table will see fit to do the same thing.

**Mr Cordiano:** The intent of Mr Mammoliti's motion is rather interesting. What I'm still deeply concerned about is what the intent of the government of the day is in Bill 120. Their intent is to bring under the Landlord and Tenant Act units that are not currently covered by the act. That is stated in the definition of the act under the explanatory notes, part I, Landlord and Tenant Act. I just want to read what this says. The bill introduces the new concept of "care home facility" and it goes on to talk about, in the last paragraph of that page, "Certain accommodation that is presently excluded from the list of residential premises is also added."

The sections of the act dealing with the Rent Control Act, dealing with the Landlord and Tenant Act, clearly state these premises will be now covered under the act.

I would like some legal advice about how this new clause can co-exist with the other clauses of 1(3) and that they are not in fact contradictory. If Mr Mammoliti's amendment is passed, I believe there will be some legal challenges to the effect your amendment gives to 1(3). Perhaps legal counsel from the ministry can give us that kind of advice, about whether someone would be able to launch a legal challenge on the basis that they have no rights when other people have rights. This is no way to write legislation, in my opinion.

**The Vice-Chair:** You're asking that of legal counsel?

**Mr Cordiano:** I'm asking legal counsel of the ministry, yes. I want to make sure that the effect that is being given by the amendment will be preserved after

that amendment is made law. Quite honestly, I don't wish to be part of an amendment that would render the act then challengeable and negate the impact of what the intended amendment is.

**Mr Lyle:** I would imagine that if this provision is passed into law, its constitutionality would be challenged under section 15 of the Charter of Rights. I'm sure you would hear arguments that it violates the equality rights of certain tenants who live in accessory apartments.

**Mr Cordiano:** Why is that? Because other tenants living in residential premises have those rights?

**Mr Lyle:** That's correct. They would have the protection of the Landlord and Tenant Act, whereas these tenants would not have the protection of the Landlord and Tenant Act.

**Mr Cordiano:** Do they have those rights currently? I suppose those tenants who live in what are recognized as legal units have those rights and those who are not living in legal units are non-existent in the eyes of the law.

**Mr Lyle:** That's not entirely clear. There's mixed law on the question of whether illegal apartments are protected by the Landlord and Tenant Act currently. That is a subject of—

**Mr Cordiano:** Is there any case history?

**Mr Lyle:** There are cases that go differently on that subject. I don't have them with me now, but I could provide that to you at a later time.

1130

**Mr Cordiano:** The trouble I'm having with this is that the effect—

**The Vice-Chair:** Through the Chair, Mr Cordiano.

**Mr Cordiano:** I thought I was talking through the Chair.

**Mrs Marland:** Who said, "Through the Chair"?

**The Vice-Chair:** I did. Mr Cordiano, you have the floor.

**Mr Cordiano:** Thank you, Mr Daigeler. I've been waiting for over 45 minutes to have my five minutes of say, and I'd appreciate the time I do have.

I understand Mr Mammoliti's amendment and its intention. The intention is essentially to not have the provisions of the Landlord and Tenant Act apply in these units that would then have an agreement between a landlord and a tenant, I suppose making it much more flexible for a landlord not to have to deal with the Landlord and Tenant Act, and there are some very legitimate concerns around that. We've heard all kinds of stories about difficulties people have with tenants and vice versa, and I suppose a contract would attempt to cover off most of those areas of concern that both tenants and landlords would have.

The difficulty in setting this forward as a subsection in this act would be that you're having quite opposite, and I believe contradictory, forces at work in the act by doing this. This section really negates the impact of the stated intention of the government to bring those units under the provisions of the Landlord and Tenant Act. Would you not agree with me that that's what this in effect would

have the impact of doing?

**Mr Lyle:** It certainly negates the intention of the government. I think that's fairly clear. Clearly, the government intended that all accessory apartments would receive the protection of the Landlord and Tenant Act.

**Mr Cordiano:** Can I ask you some personal questions with regard to your—

*Interjections.*

**Mr Cordiano:** Pardon me; wrong choice of words. Professional questions.

**The Vice-Chair:** I'd remind you again that the questions are through the Chair and that Mr Lyle is here to answer any legal questions you might have.

**Mr Cordiano:** Through you, Mr Chairman, to the deputant: Pardon me about the "personal" remark. I meant to say your professional background. You've been legal counsel in the ministry for some time and you're familiar with writing legislation and the legislation that is currently before us and other acts that are dealt with within the ambit of the Ministry of Housing.

**Mr Lyle:** Yes, I am.

**Mr Cordiano:** If this clause is permitted to be passed, and there's every indication that it may, I don't understand what we're doing with Bill 120. Why doesn't the government at that point just rescind the act? It would negate almost every impact this act would have.

**The Vice-Chair:** I'm not sure whether that's a legal question, but if you want to—

**Mr Cordiano:** Mr Chairman, if I may, if this section were to—

**The Vice-Chair:** Mr Cordiano, just in fairness to legal counsel, are you finished with your question to the legal counsel?

**Mr Cordiano:** No, I'm not finished. I'm trying to make it very clear—

**The Vice-Chair:** Would you ask your question of legal counsel, please. Otherwise, he can take his seat again.

**Mr Cordiano:** I'm trying to make myself very clear because this is not a simple question.

**Mrs Marland:** The contract is elective between the tenant and the landlord.

**Mr Cordiano:** I understand it's elective. None the less, in theory, every single tenant and every single landlord could have such a contract, making it impossible for any tenant in those circumstances to be included under the protections provided under LTA.

**Mr Lyle:** That was your question?

**Mr Cordiano:** What I really wanted to ask was the question of whether this could be entertained. If this section could be entertained in this bill, there are other things I would like to introduce, with all due respect to Mr Mammoliti. I would like to change the whole ambit of the bill, because if we allow this section to be entertained, why not go the full nine yards and introduce other measures that would certainly change the focus of the bill? I find it completely unacceptable that if we were to entertain this clause, which changes the intent of the bill,



I should not be allowed to introduce other measures which would change other aspects of the bill completely.

**The Vice-Chair:** Did you want to comment? You don't have to.

**Mr Lyle:** No.

**The Vice-Chair:** Are you finished with your presentation, Mr Cordiano? Thank you very much, Mr Lyle. Mr Grandmaître.

**Mr Grandmaître:** My questions—

**The Vice-Chair:** Have been answered?

**Mr Grandmaître:** Well, they've not been answered. They are the same questions my critic has been asking, but we're not satisfied with the answers. Maybe we should take a 20-minute break, Mr Chair, and come back at 2 o'clock with written legal advice explaining to us in detail what this amendment will do. Will it be contrary to the intention of the government? Will it supersede the LTA? All of these questions need to be answered, and I think it's important enough to take a 20-minute break and come back at 2 o'clock and have written legal advice.

**The Vice-Chair:** Are you moving that?

**Mr Grandmaître:** My colleague will ask a few questions.

**The Vice-Chair:** So you're not moving that at this point?

**Mr Grandmaître:** Well, then we'll call it. At this point, no.

**The Vice-Chair:** The next speaker is Mr Wilson.

**Mr Grandmaître:** Well, no, Mr Chair—

**The Vice-Chair:** You had your opportunity to ask questions. You can come back, which you will. Mr Wilson, and I have Mrs Marland, Mr Mammoliti, Mr Johnson.

**Mr Gary Wilson:** This amendment strikes at the heart of Bill 120. That's quite clear in the discussion we've had to this point, with legal counsel even raising the issue of the possibility of a constitutional challenge if it goes through. And Mr Wessenger set it out very clearly, based on his experience, that this goes far beyond what appears to be the intention of Mr Mammoliti.

But even on that intention, I think it's fair to say, after sitting through all the presentations, that this drastically alters the tenor of those comments. This issue was raised occasionally, but not in the vast majority of submissions. When you look at what the bill is based on, the amount of consultation that went into the writing of the bill—and here I want to mention particularly the Lightman report. After his province-wide consultation, meeting with many groups, he said in front of this committee, to quote from Hansard, "I considered landlord-tenant coverage the single most important recommendation in the report."

This amendment certainly is inconsistent with the thrust of the extension of Landlord and Tenant Act coverage to as many people in the province as possible, and to deny one group of tenants the coverage of the Landlord and Tenant Act strikes at the heart of what we're trying to do here. I think that's recognized by all members of the committee. From the discussion, there is serious concern about the intent of this amendment and

great uncertainty that we would want to move ahead with this, for the very definite reason that it takes away rights presently enjoyed by most of the tenants in the province.

Again, what we're trying to do with Bill 120, residents' rights, is to extend LTA coverage to as many tenants as possible, and it flies in the face of where we are in this history of the province that we should be taking this step that denies these hard-won rights. I think it is recognized by most of the members of this committee that this is not the way we want to be going at this point.

1140

It's clear, with the procedural issue that there is the uncertainty of what the amendment would do, in some minds at least, and the very clear position on this by people who have the experience—I'm thinking here of Mr Wessenger—that it would be going far beyond what the amendment is trying to achieve, as well as the substantive issue that this is not what we heard from the vast majority of presenters to our committee, and with Dr Lightman's clear support for Bill 120 coming out of the extension of LTA coverage, that this is simply something we want to defeat. I think the position of most of us is clear on that.

**Mr Owens:** The amendment's out of order anyway.

**Mrs Marland:** I'm not a lawyer, but I can read, and I would like for the benefit of the committee to read what is in the act. Everybody can sit around this table and say that the intent of this motion that's on the floor now is A, B or C. Mr Wessenger, who is a lawyer, just told us that this motion would affect all living units. It could affect a whole house, to use his description, a semidetached, in his opinion.

**Mr Owens:** That's right.

**Mrs Marland:** I don't need more comments from the staff at this point. Thank you.

**Mr Owens:** It was me who commented, not the staff.

**Mrs Marland:** The point is that all I can go by is what is printed on this motion and then refer to what is printed in the bill. I would have appreciated it if Mr Wessenger, who is a lawyer—none of the rest of us on the committee at the moment is a lawyer, with his training and his qualifications—had done the same thing. The decent thing would have been to take us to the definition as worded in Mr Mammoliti's motion, which says "a residential unit, as defined in section 1 of the Planning Act." It doesn't say "a residential unit" open, it says "as defined in section 1 of the Planning Act."

For those of you who haven't read section 1 of the Planning Act, I would take you to page 21 of Bill 120. There you will read that it says, "Section 1 of the Planning Act is amended by...the following definition." In section 1 of the Planning Act that exists today, there is a page of definitions and it talks about jurisdictional definitions, boards, municipalities etc. It doesn't define a residential unit. Until this bill goes through, a residential unit has not been part of the Planning Act.

As you read on page 21 over to the top of page 22, it says, "'residential unit' means a unit that... (a) consists of a self-contained set of rooms located in a building or



structure." It doesn't say what Mr Wessenger said. It says "a self-contained set of rooms located in a building." It doesn't say a house, a row house or a town house. If it applied to a house, a semi or a row house, it would say that. The reason I know it would say that is that that terminology is used elsewhere in this bill. Elsewhere in this bill there is a reference to where basement apartments will be permitted. Basement apartments will be permitted in single-family homes which are detached, semidetached or row housing.

It's very clear that the drafting of this bill would not use one set of language in one section and another set in another, unless there was an intent for them to mean something different. Obviously, the meaning of "residential unit" as defined in section 1 of the Planning Act, which is all Mr Mammoliti is referring to, is the definition within the bill itself. After it says "consists of a self-contained set of rooms located in a building or structure," it goes on to say "is used or intended for use as a residential premises" and "contains kitchen and bathroom facilities that are intended for the use only of the unit." It doesn't say "the house"; it says "the unit." If we need to get a dictionary to define "unit," then let's do that. It goes on, fortunately, to say "has a means of egress to the outside of the building or structure in which it is located, which may be a means of egress through another residential unit."

It couldn't be any clearer, and for those of you who are so blindly partisan and don't want to listen to what your own bill says, that's your choice, but I think you're being very unfair. It's very interesting to observe who in this room is giving advice to whom. If we're talking about a definition of a residential unit that "has a means of egress to the outside of the building," obviously we're not talking about the whole building, as Mr Wessenger has tried to say we are. We're saying "has a means of egress to the outside of the building or structure in which it is located"—"in which." Do we not understand what "in" means? It doesn't say "at which it is located"; it says "in which," which I would presume means inside.

It's grossly unfair, whether or not you agree with a colleague's resolution and whether or not a colleague has the courage to represent his constituency—

**Mr Owens:** That's not the issue.

**Mrs Marland:** It certainly is the issue, because of the way you're making the comments. Mr Chair, the way Mr Owens and Mr Wilson have placed their comments, and Mr Wessenger, they are not even dealing with the wording of Mr Mammoliti's motion. They are dealing with "the intent." Mr Wessenger is misleading us through his legal advice.

**Mr Wessenger:** Mr Chair, I object to that.

**Mrs Marland:** Oh, don't have a heart attack.

**Mr Wessenger:** The fact is, Margaret, that you're completely off base.

**Mrs Marland:** I am not a pretend lawyer.

**Mr Wessenger:** You are a pretend lawyer interpreting law, and in essence you don't know what you're talking about.

**The Vice-Chair:** Could we have some order? I'm

sure Mrs Marland would want to withdraw that.

**Mrs Marland:** Perhaps we should—

**The Vice-Chair:** Have you withdrawn that comment?

**Mrs Marland:** Oh, definitely. My concern is that there is an automatic credibility attached to somebody with training in law. That's why I said I'm not a lawyer, but that I can read. The point is that for 100,000 people in this province, probably 200,000 or 300,000 people, but for 100,000 occupants of existing basement apartments in this province, suddenly this is going to be law and they are not going to know anything about it.

And that's 100,000 landlords. The thing the NDP likes to do is paint everybody as a landlord, and that a landlord is this horrible, big ogre who takes people's money for providing accommodation. What the NDP fails to do is recognize that when we're talking about basement apartments, for 99% of the cases we're not talking about the big, wealthy developers like Tridel and Marathon and whatever that own multi-storey, multi-unit buildings. We're talking about perhaps your parents, perhaps your uncle and aunt, perhaps your brother and sister, who have one additional unit in their building. When we talk about basement apartments, we're not talking about the "traditional" landlord. But the NDP in its socialism believes that "landlord" is a dirty word, so when we talk about the landlord and the tenant and the need for this protection, we paint this picture of who the landlord is. As Mayor Lastman said very well, "What about the landlord with the tenant from hell?" What about the landlord today who doesn't know that tomorrow or six months from now, or whenever this is proclaimed, that suddenly he is not even going to be able to evict his tenant?

1150

You know what the irony is? A landlord may decide that's the end for them in terms of having an extra unit within their house because they don't want to be under the Landlord and Tenant Act. We're not talking about buildings built for the purpose of being apartments for the public. What the NDP members fail to recognize is that we're talking about people's private homes when we talk about basement apartments. We're talking about people living as close together as we are in this room, sometimes with less separation. We're talking about all the impact that can have on two different families or two different individuals when there is a problem.

The only reason for eviction under the Landlord and Tenant Act, and we better be very clear about this, is non-payment of rent. Non-payment of rent is the only reason for eviction. We're looking at who is living in the other half of your house, with less separation than we have in this room, and we're thinking it's okay to pass a bill that will affect 100,000 people, and suddenly people who never thought they were "real" tenants or "real" landlords are now in the business.

When we have a motion made by a member of this committee, who I presume is making the motion as a member of this committee, which he has a right to do, and when he has a very clear definition in his motion, I do not have words to describe how unfair it is. I don't care whether you vote for or against Mr Mammoliti's



motion; that's your choice—

**Mr Gary Wilson:** How are you going to vote, Margaret?

**Mrs Marland:** I'm voting for it, in answer to Mr Wilson's question.

I don't mind how people vote, but I do object to people saying this motion is saying something it isn't saying. When it is so specific about a "residential unit as defined," and then you go to the act to see the definition of that residential unit, then how can it be anything outside of that definition?

**Mr Gary Wilson:** Do you want to hear from legal staff?

**Mrs Marland:** As I have said before, the problem with this bill is that as soon as it's proclaimed, if you put 10 lawyers in a room, you'll get 10 different opinions about what this bill says. That happens to be the practise of law, and until there's a challenge and a precedent in a decision, we won't really know what this bill says.

It's very interesting. I heard Mr Owens earlier talk about "the history of our party with the tenant movement." Very passionate stuff, but I wish your party would care about private home owners as well, because that's what this bill is about.

I heard the Ministry of Housing lawyer say something about there might be a challenge under section 15 of the charter. Yes, there might well be, and there might be challenges on other sections of the bill under section 15 of the charter as well, because innocent people are suddenly going to be encompassed by a heavyweight statute in this province. Ironically, the people who provide that accommodation because they've invested in a house and have decided to rent space within their home, as it says, space which has a kitchen and a bathroom, is used for residential purposes, has an egress to the outside, is self-contained within a unit—those are the descriptions. Those people have done all of that, and by the time we get the fire marshal's regulations to ensure that they are safe, those people have made an individual decision to provide that kind of accommodation.

Although I personally am opposed to basement apartments because that's what the people who elected me have asked me to represent, I feel that this bill's impact is going to be horrendous on the lives of those people who are innocently encompassed by the proclamation of this bill.

I would like to ask the lawyer for the Ministry of Housing, either of you, did you work on the drafting of this bill?

**Mr Lyle:** I'm going to suggest that this question be answered by Tom Melville, who's my colleague from the Ministry of Municipal Affairs, legal branch. He worked on the provisions of the bill dealing with the Planning Act and the Municipal Act.

**Mrs Marland:** Okay. Who drafted the provision of the bill that defines basement apartments?

**Mr Tom Melville:** I was responsible for that.

**Mrs Marland:** So you drafted both of them.

**Mr Melville:** Yes.

**Mrs Marland:** All right. Could you take me to the section in Bill 120 that defines basement apartments? I just don't know where it is.

**Mr Melville:** It's on page 21 at the bottom, section 36 of the bill.

**Mr Rob Dowler:** I'm Rob Dowler, Ministry of Housing staff. Perhaps a point of clarification would be in order here.

**The Vice-Chair:** Are you also legal counsel?

**Mr Dowler:** I'm a policy adviser, not legal counsel, but I can speak to the intent of the drafting, if that's helpful.

**The Vice-Chair:** Go ahead.

**Mr Dowler:** I believe the question put to counsel was, where is the definition of "basement apartment" located? I think it's important for people to understand that the term "residential unit" does not necessarily refer to a basement apartment. In the popular vernacular, what that term is meant to define is a dwelling unit.

**Mrs Marland:** On grade.

**Mr Dowler:** A dwelling unit could be an entire house, it could be a unit in an apartment building, it could be a unit below grade.

**Mr Melville:** Or indeed above grade.

**Mr Dowler:** It could be above grade. It is simply a dwelling unit. I think that's an important clarification.

**Mrs Marland:** If that's the case, why is the wording the way it is on the top of page 22?

**Mr Melville:** The wording is an attempt to describe the physical characteristics of what would be commonly known as a dwelling unit or a residence.

**Mrs Marland:** So under (a), why does it say a "set of rooms...in a building"?

**Mr Dowler:** What we're referring to here is just a set of rooms that is self-contained, so they are contiguous—so you don't have, say, a series of rooms located in the basement and a series of rooms located in the attic—these rooms are self-contained, they're contiguous, and they are located in a building or a structure. Maybe this is where the confusion is coming in. This doesn't necessarily mean to imply that the set of rooms is part of a building or a structure. All it says is that the set of rooms is located in a building or a structure.

Maybe this is where the confusion is coming in. This doesn't necessarily mean to imply that the set of rooms is part of a building or structure. All it says is that the set of rooms is located in a building or structure. I think you would agree that a set of rooms that is in a single, detached house, unconverted, would be located in a building or structure. Similarly, a basement apartment unit, which is a set of rooms, would also be located in a building or structure. But the wording is not meant to imply that the rooms only make up part of the building or structure.

**The Vice-Chair:** This being 12 o'clock, we'll have to continue the exchange this afternoon.

*The committee recessed from 1201 to 1411.*

**The Vice-Chair:** Okay, if we can get the committee

started, we're already 10 minutes late. Mrs Marland, you had the floor and you were asking questions of ministry officials. Do you want the officials back at the table?

**Mrs Marland:** Yes, please. Do you think we have a quorum with four members?

**The Vice-Chair:** Are you calling for a quorum? It's up to you.

**Mrs Marland:** I don't think we have a quorum right now. My concern is, are we going to proceed and then have to take—

**The Vice-Chair:** Do we have a quorum? We don't.

**Mr Owens:** Your colleague is conferring with my colleague and Ben's colleague out in the hallway.

**Mrs Marland:** Oh, I didn't know that.

**The Vice-Chair:** Are you calling for a quorum?

**Mrs Marland:** I think we should proceed when we have a quorum.

**The Vice-Chair:** Okay, since we do not have a quorum, we'll recess until we have.

*The committee recessed from 1412 to 1415.*

**The Vice-Chair:** Okay. There's a quorum present now. If the members, please, could take their seats. Mrs Marland, you had the floor earlier this morning and I think you requested that the ministry officials should come back to the table.

So if the officials who were there this morning, if they're still here, could rejoin us, please.

**Mrs Marland:** Mr Chair, this morning we were discussing Mr Mammoliti's motion because the wording in his motion is "a residential unit, as defined in section 1 of the Planning Act, in a detached house, semi-detached house or row house...." So in order to find the definition of what "a residential unit, as defined in section 1 of the Planning Act" is, we went to part IV of Bill 120 on page 21, which is actually section 36 of the bill, and that's where we find for the first time the introduction of a description of "residential unit" under the Planning Act. In this section, we find "residential unit" means a unit that," and then the rest of the description is at the top of page 22.

My argument is that that description at the top of page 22 is specific to a residential unit rather than, as was being argued, having another meaning. If this section 36 of Bill 120 wasn't drafted to mean a unit within an existing building, then I guess what I would have to ask is, why did they not just use the description that's in the Landlord and Tenant Act itself, because I did ask at the end of the meeting this morning for a copy of the definition of residential unit in the Landlord and Tenant Act.

You know what's really interesting is that they don't call them "residential units" in the Landlord and Tenant Act. They call them "residential premises." I think that we're dealing here with something that if the government wants it to say something very clearly, it had better say it very clearly or else it's going to leave open this whole definition for challenges which are going to be expensive down the road through the court system.

If, as in the bill, (a) says a residential unit "consists of

a self-contained set of rooms located in a building or structure, (b) is used or intended for use a residential premise, (c) contains kitchen and bathroom facilities that are intended for the use only of the unit and, (d) has a means of egress to the outside of the building or structure in which it is located, which may be a means of egress through another residential unit"—if you don't want it to say that, don't have that in the bill.

As I said, I don't agree with additional units anyway, so I'm not wanting to get the wording perfect in order to pave the way for these additional units to be there, but I'm simply saying you can't describe a horse that's a cow. I think it's unfair and I think it's unfair to take that description and say, "Oh, no, it doesn't mean that, it means this." Well, if it means this, then why don't you simply say—I wrote down "a residential unit is a building or structure which is used for residential purposes." As a matter of fact, your Rent Control Act has another description.

So now that I've compared the three acts, it makes it even more clear that the definition in Bill 120 is definitely dealing only with a unit within another residential premise. If you don't want it to say that, then you have to amend your own wording. In fairness to Mr Mammoliti, his motion is taken right out of your own bill. So this business about whether or not he should move the motion is in itself kind of curious because he has simply taken a section of your own bill with this description and that's all that his motion applies to.

If you want to say that it means something else, then let's put it in the words as to what it means. It's ambiguous the way it is. It's not fair to have it say something that is totally different from the Landlord and Tenant Act and the Rent Control Act and standing on its own. If a residential unit is a residential premise and can apply to any house or residential location, no matter what kind of structure—I mean, it's kind of interesting because when you get into the Landlord and Tenant Act, they even talk about what the exceptions are, and it's funny because the exceptions are those where occupants share bathrooms. So isn't it interesting? Here we've got a requirement where they have to contain their own kitchen and bathroom facility in Bill 120, so there again this stronger emphasis that this is a residential unit within another building.

I just do not see how we can proceed with the definition as it is. In fairness to the mover of the motion, of course, we get into this a lot with legislation where we get hung up at the very beginning of a bill because we have to deal with the definitions, and then often the ramifications and scope of those definitions are not dealt with until we get into that particular section pertaining to that matter farther in the bill.

But personally, I think that the interpretation or the spin that's being put on Mr Mammoliti's motion to say that by supporting it I would be putting in jeopardy the rental agreements between anyone in this province in any type of rental unit, I'm sorry, you're going to have to tell me where that says this in the bill.

I would like to know from the legal staff, why don't you just say "a residential unit is any building or struc-



ture that's used for residential purposes," the same as the Landlord and Tenant Act says? Just use the same words.

Let me just tell you, in fairness I should have read what the Landlord and Tenant Act says. The Landlord and Tenant Act says, "any premises used or intended for use for residential purposes"—that's what "residential premises" is—"including accommodation in a boarding-house, rooming-house or lodging-house, land intended and used as a site for a mobile home"—Mr Wessinger's favourite site—"used for residential purposes, whether or not the landlord also supplies the mobile home."

So there's no question in the Landlord and Tenant Act what a residential premise is. To tell you the truth, when I read Bill 120's definition of a residential unit, I didn't have any question either, but suddenly Mr Wessinger was trying to say that a horse was a cow. He was saying that a residential unit was the same as a residential premise—

**Mr Wessinger:** Put me back on.

**Mrs Marland:** I'm glad you're going to respond, Mr Wessinger, because we'll benefit from that.

If you're saying that both these things mean the same thing, then why don't you use the same words? Perhaps that is my question to the legal staff: Why don't you just use the same words?

**Mr Dowler:** I'm not a legal person; I'm a policy person, as I indicated earlier. The policy intent of the words "residential unit"—what we're trying to do there is set out a definition that would describe a dwelling unit; that's the popular term. It could be a dwelling unit that's located within a structure, in a basement—let's say a basement apartment—or it could be the whole structure: a single, detached house.

You'll notice in the amendment proposed in section 37 of the bill that we use the words "residential unit" in the context of clause 37(2)(a) to indicate that an official plan should not prohibit "the erecting, locating or use of two residential units in a detached house."

**Mrs Marland:** Right.

**Mr Dowler:** So you can understand why we set out the definition "residential unit." This is the building block we're using to say that official plans can't preclude the locating of two dwelling units, or residential units, to use the language of the bill, in a house. So a dwelling unit again could be a single, detached, unconverted house, or it could be a self-contained unit within a house, or it could be a self-contained rental unit in any other residential building.

**Mrs Marland:** Okay. I have no difficulty with that, but say that, because that isn't what this says. What this says is that it's a self-contained set of rooms located in a building; a self-contained set of rooms. As you point out in section 37, you go on—actually there you're even more specific that "has the effect of prohibiting the erecting, locating or use of two residential units." Where? Not in a field, in a detached house, semi-detached house or row house. In other words, in clause 37(2)(a) it does say in a house.

**Mr Dowler:** Exactly.

**Mrs Marland:** Okay. So why don't you say that? Why don't you just say "any premises used for residential

purposes" and then it won't matter whether they're the whole house or a unit within a house? Why was it drafted differently?

**Mr Dowler:** The problem with going the way you suggested is that the amendment that's then proposed in 37(2)(a) would allow for the locating of two residential buildings on every lot and that's not the intention of the bill. What we're talking about is two dwelling units within a single, detached, semi-detached or row house. We're not talking about two buildings or structures used for residential purposes being allowed.

**Mrs Marland:** You are when you get to granny flats; of course you are.

**Mr Dowler:** Again, that's—

**Mrs Marland:** Granny flats are two residential—

**The Vice-Chair:** Let's make sure that we're discussing Mr Mammoliti's amendment and make some sort of connection here.

**Mrs Marland:** Yes. Well, Mr Chairman, when we get to granny flats, we are talking about two residential units on one property.

**The Vice-Chair:** We're not quite there yet.

**Mrs Marland:** No, but it's going to be just wonderful when we do get there; I can hardly wait. I hear what your answer is, but if that's what a residential unit is, why bother saying it's in a building if it is everything else as well? Why don't you say a set of rooms in a building or any premise? You can't make it say two things. You can't make it say a set of rooms in a building and everything else unless you put it there.

**Mr Dowler:** Yes. Again, I think it might be helpful if you think in terms of the words "dwelling unit." Your dwelling unit can be your entire house or it could be a unit within your house, if you're dealing with a two-unit structure. Does that help?

The other comment, Mr Chair, in response to your remarks about the proposed amendment to the Landlord and Tenant Act, I think we would concur with Mrs Marland's comment that there would be drafting problems that would result from relying on this definition in the context of an act for which it was not drafted.

**1430**

This particular definition of a "residential unit" was set out for the Planning Act and for the purposes of the apartments- in-houses provisions contained therein. The motion proposes to rely on this definition for the purposes of setting out a new provision in the Landlord and Tenant Act. There would almost certainly be problems in regard to its drafting in that context. It was not drafted with that purpose in mind, and as staff we would need to have another look at how to set it out. That's just as a comment in regard to your remarks there.

**Mrs Marland:** I don't know what you mean by that.

I'll listen to what some other people say. I think it's almost hysterically funny that I'm so interested in perfecting this vehicle that I don't even approve the design of in the first place.

**The Vice-Chair:** Are you finished?

**Mrs Marland:** I'll relinquish the floor for now.

**Mr Mammoliti:** We've got the staff here, so it might be appropriate to ask whether an insertion to this amendment might be in order to accomplish what I still think I've accomplished with this, but to kind of address some concerns that people might have. I have just inserted in my copy here at the beginning of the amendment—

**The Vice-Chair:** Mr Mammoliti, we're discussing what we have in front of us.

**Mr Mammoliti:** —I realize that—"an accessory residential unit, as defined in section 1 of the Planning Act." So you're inserting "an accessory." Would that satisfy some of the concerns that are at this hearing?

**Mr Dowler:** "Accessory residential unit" is not a defined term currently in the Planning Act.

**Mr Mammoliti:** But it is defined in this bill, is it not?

**Mr Dowler:** No.

**Mr Mammoliti:** "An accessory residential unit, as defined in"—

**Mr Grandmaitre:** It's not defined in the Planning Act.

**Mr Mammoliti:** No, it's not defined in the Planning Act. You're absolutely right. So that wouldn't work, would it?

**Mrs Marland:** And yet we're going to be approving it. Isn't it interesting?

**Mr Mammoliti:** What would you insert, then—

**Mr Owens:** It's where, George.

**Mr Mammoliti:** —and where, to satisfy the concerns that you've heard at the table around this amendment?

**Mr Lyle:** If the concerns you're referring to, Mr Mammoliti, are only with respect to the possibility that this provision could exempt detached houses, the whole house as opposed to just a unit within the house, then I think we'd have to go away and give it some thought with staff and with legislative counsel as to what wording would work in order to deal with that problem.

**Mr Mammoliti:** How long would that take?

**Mr Lyle:** It's really difficult to assess. Perhaps an hour to at least give it some discussion.

**The Vice-Chair:** Did you want to stand down your amendment?

**Mr Mammoliti:** In order to expedite things here today and to perhaps deal with other items, I'd be willing to stand down until tomorrow morning and get back to this.

**The Vice-Chair:** You're willing or you aren't? Are you standing down your amendment?

**Mr Mammoliti:** I'd be willing to, but I'd want to get back to it tomorrow morning.

**The Vice-Chair:** I obviously can give no guarantees as to when we get to it. That's within the prerogatives of the committee. So, Mr Mammoliti, are you standing down your amendment or are you continuing to discuss it?

**Mr Wessinger:** If he stands it down, it comes back at the end like everything else that's stood down.

**Mrs Marland:** No, no, we can have an agreement to come back—

**Mr Owens:** No, let's deal with it now. We're not agreeing to stand it down.

**Mr Mammoliti:** You're not agreeing?

**Mr Owens:** No. Let's do it.

**The Vice-Chair:** If you want me to ask the committee whether—

**Mr Mammoliti:** So they're not agreeing to stand it down.

**The Vice-Chair:** Well, I haven't asked, but—

**Mr Mammoliti:** You need unanimous consent to stand it down, and obviously we don't have it.

**Mrs Marland:** It doesn't need to be unanimous.

**The Vice-Chair:** Let me ask, first of all: Mr Mammoliti, do you want to continue debating it or are you asking to stand that amendment down?

**Mr Mammoliti:** My suggestion is to stand it down.

**The Vice-Chair:** I'm not asking you for a suggestion. I'm asking you what you are doing.

**Mr Mammoliti:** Let's get the rules straight first, because the Chair advised me at one point—not you, but the Chair yesterday advised me that you would need unanimous consent.

**The Vice-Chair:** For standing down the amendment?

**Mr Mammoliti:** For standing down, yes.

**The Vice-Chair:** I'm advised that, no, it would not require unanimous agreement but it would require the agreement of the committee.

**Mr Mammoliti:** What is the precedent around standing down until the following day? Is there precedent around there?

**The Vice-Chair:** There are certainly precedents. Normally it's done simply by agreement. I'm not familiar with a vote actually being taken; it's sort of agreement. However, it would have to be an agreement of the committee in order to specify that it be until tomorrow.

**Mr Mammoliti:** All right. Then I would not have a problem with that.

**The Vice-Chair:** So what are you doing, then?

**Mr Mammoliti:** To stand down—

**The Vice-Chair:** You are standing down your amendment.

**Mr Mammoliti:** I think that the concerns that have been raised are legitimate and I'd like to know some of the answers to some of these questions.

**The Vice-Chair:** Mr Mammoliti is standing down his amendment until later on during the committee's proceedings. We are moving on then to Mr Johnson.

**Mr David Johnson:** At the same time, do we understand that the staff will be coming back with some phraseology understanding the intent of Mr Mammoliti's amendment, that they would be helpful in terms of coming back with phraseology that would satisfy that intent?

**Mr Mammoliti:** That's my understanding.

**The Vice-Chair:** That is something that is between Mr Mammoliti and whoever he wishes to consult. That's not something that's up to the committee to direct. Mr



Mammoliti has stood down his amendment and it's up to him to bring it back in the proper form, in the proper method.

**Mr Owens:** On a point of order, Chair: In my experience on committees unanimous consent is generally requested to stand items down and in this particular issue, this situation, I don't agree that we should stand this item down. I think we've had a fairly significant amount of debate and quite frankly should be moving towards a resolution.

**The Vice-Chair:** I will consult with the clerk, but it would be my understanding that if the mover of an amendment decides to stand it down, I don't think that the committee could overrule him.

**Mr Owens:** Withdrawal would be nice too, but that might not happen.

**The Vice-Chair:** The clerk is on the phone. If we could just have a recess for three minutes, please.

**Mr David Johnson:** Make it five.

**The Vice-Chair:** Five minutes? Okay.

*The committee recessed from 1438 to 1445.*

**The Vice-Chair:** Okay, could you please take your seats again. After consulting with the clerk, Mr Mammoliti can stand down this amendment; however, it does require the agreement of the committee. Normally, it's done sort of informally. I understand there are some members who do not wish to stand it down. So, Mr Mammoliti, you have the option either of withdrawing it or of asking for a vote that you be allowed to stand it down.

**Hon Evelyn Gigantes (Minister of Housing):** On a point of order, Mr Chair: Is it possible that there might be an in-between position, with your discretion—

**The Vice-Chair:** It's always possible.

**Hon Ms Gigantes:** —that we would say that Mr Mammoliti would consult with legislative counsel to make sure that the amendment is designed to accomplish the purpose he is trying to achieve but that we try to deal with this matter this afternoon? Is that possible?

**The Vice-Chair:** That's still standing it down.

**Hon Ms Gigantes:** Yes, but it's standing it down within a given time frame.

**The Vice-Chair:** Nevertheless, it requires the consent of the committee.

**Hon Ms Gigantes:** That's fine, but could I propose that?

**The Vice-Chair:** Yes, that would be fine.

**Mr Owens:** Is that a motion?

**Hon Ms Gigantes:** Well, I can't make a motion.

**Mr Mammoliti:** I would propose that we do that but not in the time frame for this afternoon; that perhaps we look at tomorrow being an option, because not only do I want to touch base with legal counsel here, but there are also other opinions that I might want.

**The Vice-Chair:** So you are asking to be allowed to stand down your amendment until tomorrow, is that correct?

**Mr Mammoliti:** So that I can come back and answer

some of the questions, perhaps, that everybody has raised here today.

**The Vice-Chair:** So you are asking to allow you to stand it down until tomorrow?

**Mr Mammoliti:** That's right.

**The Vice-Chair:** Is there agreement of the committee on this? Mr Grandmaître and then Mr Owens.

**Mr Grandmaître:** I thought the question was asked of Mr Mammoliti this morning, "Where did you get your legal advice?" We were told that you did receive legal advice from the ministry.

**Mr Mammoliti:** No, not the ministry.

**Mrs Marland:** No, he didn't.

**The Vice-Chair:** I'm sorry, Mr Grandmaître has the floor.

**Mr Mammoliti:** No. I wish I did.

**Mr Grandmaître:** Can I ask Mr Mammoliti a question, then?

**The Vice-Chair:** Yes.

**Mr Grandmaître:** Where did you get your legal advice?

**Mr Mammoliti:** A number of discussions took place, but I'm not sure whether it would be appropriate for me to talk about that at this point.

**The Vice-Chair:** You don't have to answer the question.

**Mrs Marland:** No, you don't.

**Mr Grandmaître:** I wish Mr Mammoliti would; after all, it's his amendment.

**Mr Mammoliti:** I'm just trying to accommodate the committee. That's why I suggested this. I don't understand why people have a problem with this. I'm trying to accommodate some of the concerns that people have here so that we can get on to some of the other items in the bill.

**Mr Grandmaître:** I understand this perfectly. I'm asking you a perfectly legal question: Where did you get your legal advice?

**The Vice-Chair:** Mr Mammoliti already indicated he did not want to answer this question. Anything else?

**Mr Owens:** I want to concur with the minister's suggestion. While it's my view that these issues should have been resolved before we got to this point in the committee, I am prepared to agree with the minister in her suggestion that we can stand this down, but I want it understood by motion that we deal with this issue by 5 o'clock today. We can't wait till tomorrow. We've dealt with it for a significant period of time already. We seem to be doing legislative paint by numbers here, where we're still struggling to—

**Mr Mammoliti:** Just forget it, then. I'm trying to accommodate you. Forget it.

**The Vice-Chair:** Just one member at a time. The question before the committee right now is that Mr Mammoliti has asked that he be permitted to stand down his amendment until tomorrow. That was his request. Mr Owens has spoken. Does anybody else want to speak to it? Is there agreement of the committee to stand down Mr

Mammoliti's amendment until tomorrow? No? Can we have a vote, please? All those in favour?

**Mr Mammoliti:** Mr Chairman, 10 minutes at least so we could have all the members here at the table.

**The Vice-Chair:** Are you calling for a recess?

**Mr Mammoliti:** I think in fairness to some of the members, they need to hear this discussion.

**The Vice-Chair:** We are duly constituted. Are you asking for a recess?

**Mr Mammoliti:** I'm asking for a recess of 10 minutes.

**Clerk of the Committee (Mr Franco Carrozza):** Under standing order 128(a), he can ask for it before a vote.

**The Vice-Chair:** You're asking for a 20-minute recess?

**Mr Mammoliti:** Is it 20 minutes or is it 10?

**The Vice-Chair:** It's 20 minutes. Okay, the committee stands adjourned for 20 minutes.

*The committee recessed from 1452 to 1514.*

**The Vice-Chair:** The committee is in session again.

Just for the information of the committee, the clerk had given me preliminary advice on whether the request to stand down the amendment requires unanimity or just simple majority, and the clerk was checking with precedents and other clerks. I'm now advised that it does require unanimous consent. We now have the request from Mr Mammoliti still to stand down the motion until tomorrow. Do we have unanimous consent for this? No.

**Mr Mammoliti:** All right. I can't understand why some of the members would not agree to stand down until tomorrow. I thought I'd be able to perhaps be in a better position tomorrow to answer some of the questions that were raised today with my amendment, and it would free up some time to be able to deal with some of the other issues within the bill. Obviously, some members don't want to do that.

We'll talk a little bit at this point about what has been raised in reference to my amendment from other members and talk specifically about some concerns that people have had and have made about my commitment and government commitment to tenants.

We'll talk a little bit at this point about what has been raised in reference to my amendment from other members and talk specifically about some concerns that people have had and have made about my commitment and government commitment to tenants.

I don't think there's any question that my concern still is and always has been for tenants, as well as, in this case, home owners who have concerns about Bill 120, and I've got to tell you this: There have been a number of individuals in my riding who have been firmly opposed to the bill unless something like this was addressed. Those are my concerns that I've pointed out to you over the last few hours.

Construction workers who have been laid off for two years and who have been put in a very difficult situation where they have had to rent out their basements or rent

out a portion of their home because they need the money have some concerns with this legislation. With the legislation taking effect, it would in essence force their hand when they decide that, for whatever reasons monetarily, they don't wish to have somebody else living in their home. Unless my amendments are addressed, and I think in a way that everybody's happy with, those construction workers and those people, and quite frankly most of them out there who decide to rent out their units in their homes because they have a financial problem and they can't find a mechanism or a way of paying for their bills, are going to be left out and hung out to dry.

This is why I've been specific in my amendment when we talk about detached homes, semi-detached homes, row houses and others. It's because most of those people who rent out any of their units choose to do so—yes, in answering another question—but are also forced into that decision because of the problems they have financially.

Now, is that a choice or is it a situation? In my opinion, it's a situation. In my community, they're construction workers. There are people who have worked for 25 or 30 years to own what they have. And for you now to take that and not listen to them and say: "Too bad. You've decided to rent out. As of midnight of this day, you cannot, whenever you want, just say, 'I don't want this person in my unit'"—I was and I still am an advocate of the fast track—now, some people say fast-track eviction, some people say a fast-track procedure—that might come out of this. I would want to see a fast track, not only for these types of homes I'm referring to here, but also for residents who live in high-rise buildings or anybody else out there. Fast track is important, but I don't see anything around here when we talk about fast track. I don't see any amendments from the government. I don't see any proposal saying, "Yes, we're going to try and expedite some of these decisions so that home owner, that person who owns that semidetached house, who chooses to rent because of his financial difficulty and who is now placed in a difficult position with his mortgage company because the tenants that he's taken on can't pay the rent, has to now, after this bill goes through, go through a lengthy process and will end up losing his or her house anyway."

These are the people I'm trying to bring into this room. These situations are what I'd like all of you to look at. You all have them. I'm not the only one. I'm not the only person in this room who has seen this type of situation.

My amendment to the bill I think addresses those concerns, and I think it does it in a way that is a medium, is something that everybody could agree to. But obviously I've seen that it isn't. I've seen that there are some people who are actually taking offence at what I've done here. I am simply trying to represent my tenants and my home owners here.

1520

I take great offence when somebody says to me, both in the hearing and privately, that I don't care about the tenants. If I didn't care about the tenants, then what's Bill 95 going through the Legislature right now for? If I didn't care about the tenants, then why would I have sat



in committee with Bill 4 and some of the other legislation that this ministry's brought forward and continually gone up to bat for those tenants? If I didn't care about those tenants, then why am I now in Yorkview taking out a campaign against slum landlords—and working quite well, I might add.

So to those who have sat here and have insulted me to a degree that is unbearable, I can't accept that criticism. This is both to my colleagues who sit around this table and to some of the witnesses and some of the people who are sitting out there witnessing what's happening here today.

I am an individual who was elected in 1990 to represent his community, and his community is not only the tenants; his community is the home owners who are going to be affected by this piece of legislation. Those home owners agree with my amendments. Some people around this table don't agree with my amendments. I want to try to resolve this concern with the people around this table. If there are amendments to my amendments that might make you a little happier, then I'd be willing to look at them. Obviously, that is not the case, because I have asked for this to be stood down until tomorrow so that we could sit down and talk about some of these problems that might exist so that we can come to some sort of resolution. Not only on the record did I have members of this committee tell me that they're not willing to do that, but I had tenant activists tell me that they don't think that that's appropriate.

The constitutional question comes up. The constitutional question has come up every time I've sat in committee for the last three years. No matter what comes forward, there's always a lawyer somewhere who says, "Yes, there could be a challenge." Now, with all due respect to the lawyers who have given us those opinions, where's the constitutional right of those home owners of detached homes and the homes that I'm referring to when we talk about when this legislation comes into force? Where's their constitutional right when the tenants—yes, they may be illegal, but they're in their units. Where's their constitutional right in making a decision or having input to a decision when it comes to Bill 120? You're going to be forcing these people into a decision that they might not want.

My amendment addresses that. It gives them an opportunity to sit down with them and give the tenants an option. That option might be to go forward and be represented by the Landlord and Tenant Act and be governed by the Landlord and Tenant Act, or it might mean that a lease be drawn up between the both of them. I think that's fair and I don't think that that's anti-tenant or anti-tenant movement, for that matter. I take great offence at those types of comments.

Where's the rights of the home owners here? We've heard that consistently from individuals who have come forward. Where are the rights of the home owners here? This is not only, and it shouldn't only be, a tenant issue; it should be both. My amendment makes it both. My amendment talks about the rights of both people, an option, a choice that both of them have, both the tenants and the landlord. By ignoring the landlord here, you're

ignoring a very serious problem in Yorkview and I cannot sit here and accept that. As a member of this Legislature, I cannot ignore the home owners in Yorkview.

I'd be willing to make a small amendment to my amendment that I think might address a lot of the concern that Mr Wessenger raised earlier in reference to a whole house being affected. I think that is a good and legitimate concern and I've actually touched base with a number of lawyers who happen to be in this room. They would agree that a small amendment and a friendly amendment might be in order to address that concern.

It's actually the insertion of the words "an ancillary residential unit" to my amendment. I'm sorry, I mispronounced it.

I understand that with this particular wording, it will address a lot of the concerns and the questions that have come up today about this amendment. We have a choice here, my friends. I'll be very, very blunt with you. We can make a friendly amendment that might bring this language in here, and we can debate that. A friendly amendment doesn't need a debate. A friendly amendment we can just introduce here and pass or we can pass a motion at this point that would bring us into another discussion that would talk about the amendment to the amendment, and that's a decision that you need to make here as well. I'd be willing to put the motion forward.

**Mr Owens:** On a point of order, Mr Chair: I think for the purposes of process, because Mr Mammoliti is the proponent of the clause, is it not correct that he can add or subtract whatever he wants to that and put it to the committee as a whole clause? He doesn't need our agreement or not to amend his clause.

**The Vice-Chair:** It would be an amendment to the amendment. It's been read into the record.

**Mr Mammoliti:** The amending mover can move that.

**Mr Owens:** All I'm saying is he doesn't need our consent.

**The Vice-Chair:** No.

**Mr Owens:** That's all I wanted to clarify.

**The Vice-Chair:** But he can move an amendment to the amendment.

**Mr Owens:** That's right. I don't want to get into a wrangle about what we're doing and what we're not.

**Mr Wessenger:** Go ahead and do it, George. Make your motion.

**Mr Mammoliti:** I was waiting actually for a fresh copy.

**Clerk of the Committee:** If it's only a word we could do it.

**Mr Mammoliti:** I think that counsel would have those couple of words and we could make that friendly amendment.

**The Vice-Chair:** You are wishing to make an amendment to your amendment.

**Mr Mammoliti:** Yes.

**The Vice-Chair:** You're asking legal counsel to say it.

**Mr Mammoliti:** He's got it there.

**The Vice-Chair:** Would you please read that then. The amendment to the amendment would be?

**Clerk of the Committee:** As I understand it, Mr Mammoliti, you wish to add the word "ancillary" on the first line after the word "a" so it will read "an ancillary residential unit."

**The Vice-Chair:** Is that clear to the committee, or do you want that in writing?

**Mrs Marland:** On a point of order, Mr Chair: I don't think that's going to work because ancillary units are not defined in section 1 of the Planning Act. That's the problem.

**The Vice-Chair:** That's not really a point of order, but that would be part of the debate of the amendment to the amendment.

**Mrs Marland:** I'm just pointing it out. You're still leaving in "as defined." If you leave in "as defined in section 1 of the Planning Act," it doesn't exist.

**Mr Mammoliti:** It's the lawyers who are advising this.

**Mrs Marland:** Yes, but Mr Wessenger gave you that suggestion.

**Mr Mammoliti:** No, no, no. Mr Wessenger gave me another suggestion. This was the lawyers in the room who suggested this.

**Mrs Marland:** Did they not tell you that it wasn't defined in section 1 of the Planning Act?

**Mr Mammoliti:** The lawyers heard the concerns. The lawyers heard some of the questions. I asked them to try and address it and they did with this suggestion.

**Mr Grandmaitre:** I hope you're not paying them.  
1530

**Mr David Johnson:** Is it any one of these three over here?

**Mr Mammoliti:** I think if they really wanted to, they could come forward and answer.

**The Vice-Chair:** Sorry, I was a bit distracted because we're trying to clarify as well with the clerk if this is in order. So you are moving as an amendment the word "ancillary" in front of "residential unit." On that amendment then—

**Clerk of the Committee:** To clarify, please.

**The Vice-Chair:** Just to be clear again, could we from the clerk hear the amendment that's being proposed to the amendment.

**Clerk of the Committee:** "Ancillary" would be in quotes, not "ancillary residential unit." It's a residential unit but it's an ancillary to that.

**The Vice-Chair:** I think we have to have the exact wording that the amendment would be.

**Clerk of the Committee:** I'd like to look at this. Could we have a recess, please, to get the right word?

**The Vice-Chair:** Can we continue the debate, because we do have four other members on the original amendment still. If we can continue the debate and perhaps they are able to clarify this. Is that agreeable?

**Mr Mammoliti:** I think that would save time in the long run.

**The Vice-Chair:** Is that agreeable? Mr Johnson is the next one, then Mr Grandmaitre, then Mr Wessenger, then Mr Cordiano and then Mrs Marland.

**Mr David Johnson:** We're debating on this same general point, though, are we?

**The Vice-Chair:** Mr Mammoliti's—

**Mr David Johnson:** All right. First of all, I want to say that I'm very much taken with Mr Mammoliti's comments on this whole issue. This is one of the joys of being an elected representative. When you try to represent everybody, as you're elected to do, sometimes some people take potshots at you because you're not simply toeing their line. But in the broad scheme of things, you have to listen to everybody. You can't listen to just certain self-interest groups, just to certain pockets of people. You have to listen to everybody. You're elected to represent all of the people and that's what Mr Mammoliti is attempting to do and I commend him for that. That's not an easy thing to do in many circumstances. This is one of these tough issues and I think he's taken a very tough but a very appropriate stand considering all of his constituents. So I commend him for that.

If I can shift to the people who are at the end of the table here again, the amendment is a fairly simple one to understand. I don't think you need a copy of it. Apparently it's changing "a" to "an" and then putting the word "ancillary" in quotations. Can we have the advice of the people at the end of the table? Mrs Marland has indicated that "ancillary residential unit" is not defined, and that's quite true. But "residential unit" is and with "ancillary" being in quotations, does that mean that this is definable, that this is a term that would stand up?

**Mr Melville:** It would mean which?

**Mr David Johnson:** That this is a term that would stand up, that would withhold—

**Mr Melville:** It means secondary and it would modify "residential unit."

**Mr David Johnson:** And since "residential unit" is a defined—

**Mr Melville:** Term.

**Mr David Johnson:** —term, then "'ancillary' residential unit" is also defined then, is it?

**Mr Melville:** Yes, the modification would apply to—

**Mr David Johnson:** To a term that's defined.

**Mr Melville:** To a term that's defined, yes.

**Mr David Johnson:** So from a legal point of view, it's perfectly acceptable to modify a term that's defined?

**Mr Melville:** Yes.

**Mr David Johnson:** So in your view, what would "an 'ancillary' residential unit" mean?

**Mr Melville:** In my view, it would mean the residential unit in a house that was not the major unit, that was secondary in area.

**Mr David Johnson:** For example, a basement apartment would fall quite neatly into that category?

**Mr Melville:** Yes.



**Mr David Johnson:** Could anybody interpret "an 'ancillary' residential unit" as being the whole building or structure?

**Mr Melville:** I don't see how.

**Mr David Johnson:** You don't see how.

**Mr Dowler:** I guess it would beg the question, ancillary to what?

**Mr David Johnson:** So it doesn't make sense?

**Mr Dowler:** I can't think of an example off the top of my head.

**Mr David Johnson:** It couldn't relate to the whole house, the whole detached house, the whole semidetached house or the whole row house, because the word "ancillary" would prevent that.

**Mr Melville:** It implies that it is a secondary unit in size.

**Mr David Johnson:** If Mr Mammoliti's intent then is to separate those and exempt, let's say, the basement apartments and what we've been calling "accessory" apartments, although that term isn't defined anywhere, then he's accomplished that through this recent amendment to the amendment.

**Mr Melville:** I'm not sure it's fair to ask me to speak to how well the amendment would achieve the policy objectives of what Mr Mammoliti wants to do, because I think there are a number of other ramifications we haven't spoken to, but in terms of making it the secondary unit, it does achieve that.

**Mr David Johnson:** What other ramifications are you referring to?

**Mrs Marland:** But they're not defined in here.

**Mr Melville:** I guess there are a number of other issues that could happen.

**The Vice-Chair:** The legal aspects.

**Mr David Johnson:** Yes. That's what I'm asking.

**Mr Melville:** It doesn't deal with a situation, for example, of two units where they're both rented or a situation where you could have one small unit and one large unit and the large unit is the rented one.

**Mr David Johnson:** If you have two units that are rented, then you're saying it doesn't apply to that, or it does?

**Mr Melville:** It would apply to the ancillary unit.

**Mr David Johnson:** So one of them would be considered the ancillary unit.

**Mrs Marland:** "Ancillary" doesn't refer to size.

**Mr Melville:** I think the dictionary would say ancillary is secondary, auxiliary or—

**Mrs Marland:** But it doesn't refer to size.

**Mr David Johnson:** A reasonable interpretation then would be that the smallest unit would be considered the ancillary. Is that what you're saying?

**Mr Melville:** Yes.

**Mr David Johnson:** From a legal point of view, if this was up in court and the judge had to make a decision, and somebody said, "That's the ancillary unit," and somebody else said, "No, it's not, it's that one," then the

judge would probably take which one is the biggest in area. Is that the way it would work?

**Mr Melville:** Given the time that I've had to consider it, yes. I'd answer it that way.

**Mr David Johnson:** If you have two apartments being rented in a house, an absentee owner, then the smaller one, from what you've just said, would be exempted and the bigger one wouldn't be.

**Mr Melville:** Well, it's a reasonable—

**Mr David Johnson:** It's a reasonable assumption at this point?

**Mr Melville:** Yes.

**Mrs Marland:** You're really saying "ancillary" means size.

**The Vice-Chair:** Mr Johnson has the floor.

**Mr David Johnson:** Are there any other suggestions in terms of size, anything else beyond that in terms of prominence in the structure or anything like that?

**Mrs Marland:** "Ancillary" means additional.

**The Vice-Chair:** Perhaps I could just remind members that we're not even really discussing this particular amendment to the amendment yet, but in order to possibly speed up the process, I'm allowing this debate. We don't really have "ancillary" before us right now. He hasn't formally moved that yet. We are still talking to his main amendment.

**Mr David Johnson:** Nevertheless, it's still part of the amendment.

**The Vice-Chair:** Yes. I am saying hopefully to expedite matters later on.

**Mr David Johnson:** Just in terms of the whole amendment itself, if I was a tenant and lived in a basement apartment and this amendment went through as Mr Mammoliti sees it going through, then as I understand it, I would have the right of determination of whether I entered into a contract or not. Is that your understanding?

**Mr Melville:** I'm not sure. Am I being called upon to interpret Mr Mammoliti's amendment?

**Mrs Marland:** Yes, you are.

**Mr Melville:** What it says is if there is a written contract entered into between the landlord and the tenant, after this clause comes into force.

**Mr David Johnson:** That implies if there isn't, then the clause does not come into force.

**Mr Melville:** I think that's a reasonable implication.

**Mr David Johnson:** That's a reasonable assumption.

**Mr Melville:** Yes.

**Mr David Johnson:** Then if the clause does not come into force, the provisions of the Landlord and Tenant Act would then apply. Is that the way it works?

**Mrs Marland:** If the bill is passed.

**Mr Melville:** I think that's certainly a possible interpretation.

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**Mr David Johnson:** The way I interpret this, then, the tenant has the right to determine if that tenant wishes to enter into a contract or not. If the tenant chooses to

enter into a contract, then that contract applies. If the tenant chooses not to enter into a contract, then the Landlord and Tenant Act applies. From a legal point of view, is there any hole in that?

**Mr Lyle:** I think the concern would be that if a tenant chose not to enter into a written contract, the landlord may refuse to lease the premises to the tenant.

**Mr David Johnson:** Is that a legal basis for not renting an apartment?

**Mr Lyle:** That's a question of negotiation between the parties.

**Mrs Marland:** But that's going to apply anyway, everywhere. You can't force people—

**Mr Lyle:** I'm not suggesting that, but this is basing landlord and tenant coverage on that.

**Mrs Marland:** Yes, but if they're already there—

**Mr David Johnson:** If they're already there and if they refuse to enter into a written contract, if they're already there in a basement apartment and the landlord, or the owner of the house—

**Mrs Marland:** That's better, home owner.

**Mr David Johnson:** —who could be a senior citizen, came and said, "I'd like you to enter into this contract; you've lived here for two years in the basement apartment, but now we have Mr Mammoliti's fine amendment to Bill 120; in view of that, I'd like you to enter into that contract, and if you don't, I'll evict you," who would you prefer to represent at that point, the landlord or tenant?

**Mr Lyle:** If it's a pre-existing tenancy, then you're correct: It's a different situation and there's no ground for eviction for refusing to sign a tenancy agreement.

**Mr David Johnson:** So you couldn't force the tenant out because the tenant didn't sign a contract. Am I right?

**Mr Lyle:** If there was a pre-existing tenancy agreement, then that would not be an issue.

**Mr David Johnson:** All right. If there wasn't, if there was just the fact that a person came in and paid \$500 a month, no written agreement, and many people will not have written agreements, I suspect, but in that case—

**Mr Lyle:** I intended to say, when I said pre-existing tenancy agreement, pre-existing tenancy, so whether there's a written agreement or not, yes.

**Mr David Johnson:** Right, or not. You could not evict a tenant because they refused to sign a contract.

**Mr Lyle:** That's correct. But it would not deal with the situation of the new tenant.

**Mr David Johnson:** The only situation where there may be some concern from a sort of "tenancy" point of view is that if you are coming to a property and you wanted to be a tenant there and the owner of the property—again it could be a senior citizen—said, "Unless you sign this agreement, you can't live here," then that owner of the property would have the right to not rent on that basis, or indeed on any. Really there's no compulsion for a person to rent their basement to anybody, I guess.

**Mr Lyle:** Except for the Human Rights Code, no.

**Mr David Johnson:** Yes, but if it was any other basis.

**Mr Lyle:** Yes, that's correct.

**The Vice-Chair:** We now have received in writing the amendment to the amendment. With the permission of the committee, I'll allow Mr Mammoliti to state for us whether that's the amendment to the amendment he wishes to make. Is that your amendment to the amendment?

**Mr Wessenger:** Mr Chair, I'm wondering if I could ask for clarification on this amendment from legal counsel from the Ministry of Housing because I have some concerns and I'd like their opinion before Mr Mammoliti elects to move this amendment related to "ancillary."

**The Vice-Chair:** We're now in an unusual process here, but with the agreement of the committee—

**Mr Grandmaitre:** We all agree.

**The Vice-Chair:** Okay. Go ahead.

**Hon Ms Gigantes:** Why don't we get it moved and then we can—

**Mr Wessenger:** Maybe I shouldn't be acting as a lawyer here, but I—

**Mrs Marland:** Go ahead.

**Mr Wessenger:** If I could just ask legal counsel, I gathered from your answers that there's some ambiguity with respect to the concept of the word "ancillary." Is that correct?

**Mr Melville:** I answered that before and, yes, there could be ambiguity with that.

**Mr Wessenger:** Okay. Would it make it less ambiguous if we added, after "ancillary," "to an owner-occupied residential unit in a detached..."? Would that make it clear, if we added the words "ancillary to an owner-occupied residential unit"? Would that create any more clarity?

**Mr Melville:** I think that creates a new set of policy issues; that's what it does.

**The Vice-Chair:** I think we have to go back to Mr Mammoliti, since he is the one who is moving the amendment and who is trying to make an amendment to the amendment. If we have a further amendment to the amendment, I think this is going to get awfully complicated. Mr Mammoliti, what are you proposing?

**Mr Owens:** We could vote on the clause now.

**The Vice-Chair:** That's really what's still before the committee, yes.

**Mr Mammoliti:** I move that the definition of "residential premises," as set out in subsection 1(3) of the bill, be amended by adding the following clause:

"(i.2) a residential unit, as defined in section 1 of the Planning Act"—

**The Vice-Chair:** Mr Mammoliti, you already moved the original amendment. You are moving an amendment to your amendment. Would you please read that particular part.

**Mr Mammoliti:** Why don't I read it all, Mr Chairman, and we'll base it as an amendment to the amendment? I'm proposing an amendment to my amendment that would read—



**The Vice-Chair:** If that's agreeable to the committee, that the way he reads it would be the amendment—

**Mr Mammoliti:** "(i.2) a residential unit, as defined in section 1 of the Planning Act, that is ancillary in a detached house, semidetached house or row house if there is a written contract between the landlord and the tenant entered into after the day this clause comes into force."

**The Vice-Chair:** I have Mr Grandmaître, Mr Wessinger, Mr Cordiano, Mrs Marland, Ms Gigantes. We are now talking to the amendment to the amendment.

**Mr Grandmaître:** With the addition of "is ancillary" to the main amendment, does this make the amendment to the amendment—I don't like to use the C-word, but under the Charter of Rights would this be acceptable?

**Mr Lyle:** I don't think the concern around the Charter of Rights was the concern as to whether or not this applied only to ancillary residential units. The concern over the Charter of Rights was that some tenants of some kinds of residential premises would not have the protection of the Landlord and Tenant Act, whereas the other tenants do. That was the Charter of Rights concern I raised earlier.

**Mr Grandmaître:** But you don't see any problems with this amendment, this addition.

**Mr Lyle:** This addition does not create new Charter of Rights problems but it doesn't take away the Charter of Rights problem that—

**Mr Grandmaître:** It doesn't take away the original concern you had before.

**Mr Lyle:** That's correct.

**Mr Wessinger:** First of all, I'd like to say that even as amended I have great difficulty with it because it's a question of the wrong approach towards dealing with a problem. Basically, the problem that exists out there is a problem with respect to the way the process works under the Landlord and Tenant Act. That may partially have to do with the way the court system works and some of the technical aspects with respect to the way the Landlord and Tenant Act works. I think that's the problem and by trying to get around that problem by creating two different sets of rights, depending on who the landlord is, is the wrong approach.

Secondly, I'd like to state that if you're a landlord, you make a choice to be a landlord and you ought to take the risks involved in making that choice. With respect to the concept of saying an owner of a house is different from somebody who owns a duplex, I find it very hard to find any distinction between a person who owns a duplex and a person who owns a residential house in which he rents one portion out and rents the ancillary one out in the basement. I don't see any distinction from that at all.

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Going further, with respect to the economic harm to the person who owns a house, I don't really again see any distinction between that with respect to any landlord, and particularly any small landlord who might, for instance, own, as I said, a duplex, a triplex, a sixplex. I've seen the economic hardship suffered by unsophisticated landlords who own small buildings, in many cases, under the Landlord and Tenant Act and I don't think we

should create two classes of landlords. For that reason, I think we should vote against this amendment.

**Mr Cordiano:** I was on the original list to speak to the amendment, which I had not spoken to.

**The Vice-Chair:** Do you want to stand that down then? We are dealing with the amendment to the amendment.

**Mr Cordiano:** But you had a list of speakers on the original amendment, and that's the list I want to be on.

**The Vice-Chair:** Then we'll go on to Mrs Marland.

**Mr Cordiano:** But you do have that list?

**The Vice-Chair:** Yes, I do.

**Hon Ms Gigantes:** Aren't we dealing with the amended amendment? There was agreement—

**The Vice-Chair:** I'm sorry, no. There has been no agreement to vote on the amendment to the amendment.

**Hon Ms Gigantes:** Then make a motion, for heaven's sake.

**The Vice-Chair:** Mr Mammoliti has moved it, but we have not voted on that. We're discussing the amendment to the amendment.

**Mr Owens:** On a point of order, Mr Chairman: My understanding is that we were, as Joe understood, dealing with the whole package. I thought there was some level of consensus around the room that it didn't matter how Mr Mammoliti read it into the record, we were dealing with the package as a substantive issue.

**The Vice-Chair:** Mr Owens, we had an amendment that was read into the record. Mr Mammoliti wants to amend this amendment and that's what we're debating at the present time. Now, in this debate you can obviously discuss and bring in some other comments that relate to the original amendment, but it does require a vote. Mrs Marland has the floor.

**Mrs Marland:** Are you on the point of order?

**Mr Wessinger:** I was just going to try to expedite the process by suggesting that we could unanimously agree that the motion Mr Mammoliti has put before us—

**The Vice-Chair:** That it be so amended?

**Mr Wessinger:** So amended, that's right.

**The Vice-Chair:** Is there unanimous agreement? I don't see unanimous consent for that. Mrs Marland has the floor.

**Mrs Marland:** In speaking to the amendment, which deals only with the word "ancillary," I would like to know whether—I'm very interested in the answers, and I'm sorry, I should have written your names down earlier and I didn't. What is your name?

**Mr Melville:** Tom Melville, Ministry of Municipal Affairs.

**Mrs Marland:** I want to ask Mr Melville this question again to pursue the meaning of "ancillary," which Mr Johnson was asking you, because I think it's very important, or it will be if this passes, because somebody is going to have to know what the definition of "ancillary" is in the ministry's eyes. I want to be clear because I thought in some of your answers, Mr Melville, you said that if there were two units and one was larger than the

other, you would say the smaller unit was ancillary. Is that so? Is that what you're saying?

**Mr Melville:** I was asked that question and I gave the opinion that "ancillary" meant secondary in size.

**Mrs Marland:** How about secondary in age, as with an addition, ancillary to an existing structure?

**Mr Melville:** The amendment is not completely clear. It's true that you could add any number of complicating factors. We have not had time to consider those factors in any measured way, but on balance, and given the question and the time to answer it, I stand by it. I think that "ancillary" does mean—

**Mrs Marland:** Secondary.

**Mr Melville:** Ancillary, I'm sorry, means secondary, as you mentioned.

**Mrs Marland:** Yes. I agree with you that ancillary is generally accepted and interpreted as being secondary to something, which obviously exists, but I don't ever see it being relative to size.

**Mr Melville:** I agree. If you're saying the concept has ambiguity, yes, it does. In a perfect world, we would have time to sit down and work out precisely how we wish to define the concept.

**Mrs Marland:** Since we're in this perfect world where you did have time in drafting this bill—in fact, going back to Bill 90, and I guess it was even more perfect—in this amendment that is being placed, there is still a reference to the definition of section 1 in the Planning Act. In that definition, the arguments that I gave earlier about why this motion will not apply to single-family homes but only units within them—I want to take you to clause 37(2)(a) and ask you again about clause 37(2)(a), which reads:

"No official plan may contain any provision that,

"(a) has the effect of prohibiting the erecting, locating or use of two residential units in a detached house, semidetached house or row house situated in an area where residential use is permitted by bylaw and is not ancillary to other uses permitted by bylaw."

It's very interesting, because we've got this wonderful word "ancillary" there, and of course in that sense it has nothing to do with size.

Also, in that paragraph you're telling the municipalities essentially that they can't prohibit these units in their official plans. In saying to a municipality what your official plan must be, you're again referring to two residential units in a detached house. So it brings you back to the previous section, where the definition is of a "residential unit."

If it isn't in another building, how could you possibly identify it in clause (2)(a) as being two separate buildings? One contradicts the other. In clause (2)(a) the unit has to be a part of something else. It can't be the whole house.

**Mr Melville:** That's correct, in (2)(a).

**Mrs Marland:** Right. So what's the difference?

**Mr Melville:** I can only reiterate what Rob said earlier. The residential unit is a building block. The idea is a building block.

**Mrs Marland:** I know, but here we've got two concurrent or following sections in a bill and you're saying one thing in one section and another in another. I keep saying it's up to you to perfect this, because I'm going to be voting against all of it anyway, but the point is that there are people who are going to have to interpret this, and you can't say a residential unit is something in section 36 and then in section 37 say it's something else.  
1600

In section 37, a "residential unit," which are the words that are printed in there, cannot be a whole house, right?

**Mr Melville:** It's saying that you cannot prohibit if you're a municipality—

**Mrs Marland:** Right.

**Mr Melville:** —the putting in of two of those units into a single house; yes, that's quite clear.

**Mrs Marland:** That's right. So how is it in section 36 two of those units can be anything else but a unit within a building?

**Mr Melville:** You mean in the definition.

**Mrs Marland:** Yes.

**Mr Melville:** Well, it's a building block. You're taking the definition and using it for different purposes. In section 37 it's used for the purpose of defining what a municipality cannot prohibit. In Mr Mammoliti's motion it's used for a different purpose entirely.

**Mrs Marland:** But whatever we do with Mr Mammoliti's—

**Mr Owens:** Let's call the question.

**The Vice-Chair:** The amendment to the amendment.

**Mrs Marland:** Whatever we do with Mr Mammoliti's motion, it pivots on this definition. That's why I want you to either change the wording or admit that those two sections don't mean what you're saying they mean. You can't call them a residential unit in section 36 and say it means a whole house and then go to section 37 and say it doesn't mean a whole house, because it means inside a house.

**Mr Dowler:** Maybe I can be of some assistance here.

**Mrs Marland:** It can't be a part. How can a unit be a part in one section and not another?

**Mr Dowler:** Let me just try this.

**Mrs Marland:** No, I really think it's a legal interpretation, with respect. I really do, because these laws are not interpreted, and I say this with respect. They're not interpreted by policy analysts. They're interpreted at great expense in the courts with two or three lawyers.

**Mr Dowler:** I was just going to suggest that maybe I could clarify the drafting instructions that were given to our lawyers in plain language, and from that you could then get a sense what these two sections are intended to do in policy terms. I thought that might be helpful. Section 36—

**Mrs Marland:** Well, you can give me that explanation, and certainly I know there were drafting instructions given to the lawyers—

**Mr Dowler:** Yes.

**Mrs Marland:** —but all we've got today is what the



lawyers drafted. This is what I'm going to go to court with, with my lawyer, and you're going to go to court with your lawyer with the same document—

**Mr Dowler:** Yes.

**Mrs Marland:** —and you're going to get two lawyers deciding what this mean. I'm simply saying to you, why don't you just say that a residential unit is a building or a structure which is used for residential purposes? Why say two—

**Mr Dowler:** I was just going to offer the comment that the definition—

**Mrs Marland:** Unbelievable.

**Mr Dowler:** —is intended to describe a dwelling unit, and that's the basic building block. That's set out in section 36.

Section 37 is intended to describe the situation whereby two dwelling units are located within a single detached, semidetached or row house. The two concepts are not mutually incompatible. I don't know if that helps.

**Hon Ms Gigantes:** They have nothing to do with the amendment to the amendment.

**The Vice-Chair:** Well, perhaps any further—

**Mrs Marland:** Excuse me, Mr Chairman, they have a lot to do with the amendment to the amendment because of the fact that the amendment refers to a definition.

**The Vice-Chair:** Mr Owens was next on the list. Did you want to talk to the amendment to the amendment?

**Mr Owens:** No. I thought we had agreed that we were doing the whole piece.

**The Vice-Chair:** Mr Mammoliti, still to the amendment to the amendment. Did you want to say anything further on it?

**Mr Mammoliti:** Can I just ask you a question in terms of process first, Mr Chair? When we discussed the amendment to the amendment, after we discuss and vote—I assume we're voting on this.

**The Vice-Chair:** Yes.

**Mr Mammoliti:** Will we then proceed—

**The Vice-Chair:** Back to the amendment.

**Mr Mammoliti:** Back to discussion to the amendment?

**The Vice-Chair:** That's correct.

**Mr Mammoliti:** As amended.

**The Vice-Chair:** Well, it depends whether or not your amendment to the amendment carries.

**Mr Mammoliti:** Okay.

**The Vice-Chair:** If it carries, then we will talk to the amendment as amended.

**Mr Mammoliti:** Okay.

**The Vice-Chair:** Finished?

**Mr Mammoliti:** No, I'm not finished. That was just a question.

**The Vice-Chair:** Okay. Did you want to say anything else then?

**Mr Mammoliti:** Yes.

**The Vice-Chair:** To your amendment to the amendment.

**Mr Mammoliti:** To the amendment, yes, the amendment to the amendment.

I'm sorry for having to repeat myself, but the concern again with a home owner who decides to rent out his basement apartment, for instance, because he's out of work—because, as we've experienced, the recession was a bad one, people have decided to take this on and rent their basements or rent a portion of their home to somebody else—and then decides after perhaps the tenant does not pay the rent—

**Hon Ms Gigantes:** Mr Chair, on a point of order: With all due deference to the concern which is being raised by Mr Mammoliti in his main amendment, he is not now speaking to the amendment to the amendment, which has to do with the addition of the words "an ancillary."

**The Vice-Chair:** I'm sorry, but I think Mr Mammoliti is speaking to his amendment. He's quite in order.

**Mrs Marland:** I have a point of order. There are six members of this committee this afternoon. I think Mr White is still sitting as an independent.

**Clerk of the Committee:** He's a member of the committee.

**Mrs Marland:** But he's not a government member.

**Mr Dadamo:** Yes, he is.

**Mrs Marland:** He is a government member?

**The Vice-Chair:** I'm sorry. You may not have been here this morning, but I clarified that.

**Mrs Marland:** All right. So then we have six government members sitting on this committee this afternoon. Am I correct? Is the minister the seventh member of the government party this afternoon and is the minister able to move points of order or is she here to answer questions on her bill?

**The Vice-Chair:** As you know, Mrs Marland, every member of the House has the right to sit at the committee and to raise questions. They're not allowed to vote. However, they are certainly allowed to raise points of order and to intervene in the debate.

**Mrs Marland:** Okay, I thank you for clarifying that for me.

**The Vice-Chair:** Mr Mammoliti, you have the floor.

**Mr David Johnson:** We can't hear the minister speaking, Mr Chair.

**Mr Mammoliti:** I'm sorry; I'd like to know what the minister is saying.

**Mrs Marland:** So would we.

**Hon Ms Gigantes:** I would love to share it.

**The Vice-Chair:** I'm sorry, the floor is held by Mr Mammoliti, who is speaking on the amendment to the amendment. Mr Mammoliti.

**Mr Mammoliti:** I believe that I gave an example of a home owner who has decided, because of financial difficulties—and again, in most cases when individuals rent out a portion of their home—

*Interjection.*

**Mrs Marland:** I can't hear because the minister is harassing my Chairman.

**The Vice-Chair:** Mr Mammoliti, you have the floor.

**Mr Mammoliti:** Then after the landlord, the home owner, gets back on their feet, with this amendment to the amendment it would not change the scope of my original amendment, which would mean that they would be able, if wanting to rent out their unit, to make some sort of an agreement with that particular tenant.

We heard from different individuals as well during the hearings, and if I'm not mistaken, from a number of tenants. The question was posed as to whether or not they would agree to sign a contract that would incorporate them doing manual labour in a home, ie, shovelling the snow, planting flowers, painting the fence—

**Mr Gilles E. Morin (Carleton East):** The same day.

**Mr Grandmaître:** The same day.

**Mr Mammoliti:** The same day. The tenants who were in front of us said they would like that opportunity and that the only opportunity they would have to do that and to incorporate that in the contract—I believe Mr Johnson asked this question during the hearings, if I'm not mistaken. The reply from the tenants was that they'd like the opportunity to do that.

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Then the question became, would the Landlord and Tenant Act allow for this type of an agreement? The answer that came back from the ministry was that the Landlord and Tenant Act would forbid any types—

**Hon Ms Gigantes:** Mr Chair, on a point of order: I object to the fact that you are permitting Mr Mammoliti to speak to the amendment when I withdrew from your speaking list because I understood you had decided that we were to speak to the amendment to the amendment.

**The Vice-Chair:** Which Mr Mammoliti is doing. He's taking some liberties, but in order to fully understand the amendment to the amendment, I think it is quite—

**Hon Ms Gigantes:** No, it has nothing to do with ancillary—

**The Vice-Chair:** I'm sorry, Minister. You're out of order. I'm the Chair here. Mr Mammoliti is trying to explain his amendment to the amendment by making certain references to the original amendment, which is quite in order. Mr Mammoliti.

**Mr Mammoliti:** When the question was posed to the ministry in reference to whether the Landlord and Tenant Act would allow for such an agreement, the reply that came back from the ministry officials was that the Landlord and Tenant Act would not allow this to happen and that it would supersede any contract that would take place. My discussion with you here today and what I propose would allow tenants to be able to do that and it could in essence take the place of a monetary figure.

This would help a number of tenants in that some of them may not have work. They may not be able even to pay the amount of rent that a home owner would want. But at the same time if it's a home owner who can't shovel the snow or can't paint or can't cut the grass or can't do any of this work, this contract provision would

allow that tenant to be able to move into such an agreement and it would help out both.

If this amendment, and in this case the amendment to the amendment, doesn't carry, it might stop this type of situation from happening, and I know that there are many tenants who would want the opportunity to do that. At the same time, there are arguments from others who say that my amendments would take away rights of tenants. We have heard consistently, even from legal, that this will not do that, that rights would not be taken away from tenants and that in essence there would be this—

**Mr Owens:** On point of order, Mr Chair: Just in terms of where we're straying on this, and I understand that you're allowing certain—

**The Vice-Chair:** Did you ask—

**Mr Owens:** Certainly, I asked for a point of order—that you have allowed certain liberties, but we're straying off now into the principle of tenant—

**The Vice-Chair:** I somewhat agree with you, Mr Owens, so Mr Mammoliti, if you could try and stay as closely as possible to your amendment to the amendment, it would be appreciated.

**Hon Ms Gigantes:** Make it at least ancillary.

**Mr Mammoliti:** I appreciate the minister's humour. It's refreshing for a change in that I haven't witnessed it for two years in my discussions with her.

**Mr Owens:** George, George.

**Mrs Marland:** Careful, George.

**Mr Mammoliti:** When a person—and we're going to talk a little bit about Mr Wessenger's—

**The Vice-Chair:** No, Mr Mammoliti, you're talking about your amendment to the amendment.

**Mr Mammoliti:** The amendment to the amendment talks about Mr Wessenger's concern about the original amendment. The concern was that homes, houses, may be affected, that houses that currently would fall under the Landlord and Tenant Act would be affected. The amendment to the amendment, I understand, would stop that from happening and would allow, and it's a right that I'd like to give tenants, the opportunity to sign a contract with a home owner that would allow them to do work around the unit, to make some other arrangements in terms of any contract that might be satisfactory to that home owner.

Let me say, now that we're getting into this, that this might even solve some of the concerns—

**Mr Owens:** We've been into this for three days now.

**Mr Mammoliti:** —that some of the mayors would have and even some of the ratepayer organizations in reference to how some of these homes look and the work that's not being done on some of these streets by the home owners, and neglecting the cutting of the grass and neglecting the—

**Mr Owens:** On a point of order, Mr Chair: Let's bring the member back to the issue at hand, please: the amendment to the amendment. I'm not sure what that has to do with cutting grass.

**The Vice-Chair:** Mr Owens is right that we're talking



to the amendment to the amendment and I have already—

**Mrs Marland:** It's ancillary to the house to cut the long grass.

**Mr Mammoliti:** My point is this one and I agree—

**The Vice-Chair:** I have already reminded the member to try and link his comments as closely as possible to the amendment to the amendment.

**Mr Mammoliti:** If people would let me finish my train of thought, I would get to my point and it would be very specific to the amendment to the amendment.

One of the concerns that people have come forward with in reference to—Mel Lastman, my mayor, came forward with this. He said that you could walk down any street and you could tell which houses are rented and which ones aren't.

With my amendment to the amendment, the landlords, the owners of those homes, will have the choice whether or not they would want a contract to incorporate the amount of work that's being done on those homes and trade it off for money perhaps.

When you, for instance, as we discuss this and as Mel Lastman says, now drive down a street and see that the grass is unattended to and the eavestroughs are not being fixed and the railings aren't being fixed and none of this stuff is being fixed, my amendment to the amendment actually would give that home owner an opportunity to have somebody fix up his home and do it with a contract and live there at the same time. So when we talk about a home and the home being now brought into the scope of the amendment—

**Mr Owens:** I think we're still straying here, Chair, but I'll leave it up to your discretion.

**The Vice-Chair:** Mr Mammoliti, you have the floor.

**Mr Mammoliti:** Mr Wessenger's concern with my original amendment was that homes would not be incorporated. Homes now are incorporated with this amendment, okay? With that, I see a positive twist, and it's something, to be quite honest with you, I didn't even think about. Now that I've made this amendment to the amendment, if this goes through, I'm going to start pushing harder and try to convince some of my home owners that it's in their best interests to create a contract with one of their residents—if they own a home and they rent out two portions, for instance, or even one portion of the home—that would not only meet the monetary needs of the home owner and the renter, but would also incorporate work to be done to improve that particular home and the appearance of that home. I think it would actually, if done, meet the needs of somebody like Mr Lastman or Mr Johnson when he was the mayor of East York.

You know that one of the concerns was the appearance of these homes. We could never come to any type of an agreement because the bylaws or lack of bylaws was always in the way. Now, with the amendment to the amendment—

**Mr Owens:** George, calm down.

**Mr Mammoliti:** Mr Chair, I'm being told to calm down, but I can't hear myself because of the talk beside me.

**The Vice-Chair:** I can hear you.

**Mr Mammoliti:** My point is that I think this is even better than my original suggestion, that this will satisfy even more people and that contracts may be a better way of finding affordable housing for people. Remember what the ministry told us when I believe it was Mr Johnson asked a question, the Landlord and Tenant Act supersedes and will not allow a contract to be put in place. Let's remember that argument because for me now it's even more of an issue. I'm glad I did this, and actually I want to thank the lawyers for helping me out on this one because I certainly don't have access to the ministry lawyers or to the phones or to any of that. As a backbencher, I don't have access to any of that stuff.

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I'm not a lawyer, if you haven't guessed, and I need this process to be able to better fulfil my needs and figure out a way of working this system. It has taken me almost four years, but I've figured out, almost, how to work the system here, and I'm glad I did, because now I'm able to address some of the concerns of my home owners, and I'm doing it with the amendment to the amendment, for those construction workers who are out of work and need money perhaps, or those construction workers whose tenants don't want to pay the rent for one reason or another and can't afford to go through the process that currently exists.

If you were to ask and maybe we should ask some of the lawyers around the table how much they would charge on an hourly rate to represent some of these home owners—

*Interjection.*

**Mr Mammoliti:** Here's some talk about support groups. Yes, I hear the argument. Support groups are there even for home owners, right, but who's going to pay for the education and who's going to pay for the information to be distributed to all these home owners? Nobody's going to pay for that. I don't see any commitment from any ministry with this bill to help those particular home owners I'm trying to represent here as well.

Maybe, just maybe, if I can get a commitment, a monetary commitment that would include the education of these home owners on what Bill 120 means to these home owners, and give them the time to be able to absorb that and to deal with that even legally if they have to, then maybe I would not be proceeding in the way that I'm proceeding.

But that money is not there. So what do I need to do? I need to put an amendment to a bill that is pretty good in my opinion, but needs the amendment to be able to address the concerns of people in my community.

Now I'm having to even amend that amendment because we have found some concerns that individuals may want addressed. I'm hoping that once the debate has finished people will see it my way when it comes to representing the needs of those who are vulnerable, and the argument will come out that tenants are vulnerable. Well, so are these home owners. So are some of these home owners when they've worked for 25, 30 years and

don't want to lose their homes. How vulnerable are they?

**Mr Owens:** On a point of order, Mr Chair: I think the standing orders are quite specific, and the clerk can instruct me on the specific section, that once a member becomes repetitious as the member is—

**The Vice-Chair:** I don't see that Mr Mammoliti has been overly repetitious.

**Mr Owens:** Shall we start counting the number of times that he says specific words.

**The Vice-Chair:** He is repeatedly referring to his amendment to the amendment, so therefore you do not have a point of order.

**Mr Owens:** This is very Monty Pythonesque.

**The Vice-Chair:** Mr Mammoliti, you have the floor.

**Mr Mammoliti:** This is not an issue that is humorous to me. This is not an issue that I appreciate, especially from my own colleagues. We're talking about construction workers. We're talking about people who can't afford their homes, who have worked all their lives for their homes and don't want to lose their homes and don't want to be put in a situation of having to go and live somewhere else, perhaps in a high-rise building that they have never been able to or never wanted to—let me just scrap all of that. I'm getting too emotional here.

This is about those particular people who can't afford the home, the people who have worked all their lives. This issue is about those people. The comments that are made around the table are insulting to those individuals who have come to me for help.

While we are here to represent tenants, we are also here to represent the home owners. I would love it, after this is all said and done, for these same individuals who bring these arguments forward to distribute Hansard among the home owners in their own ridings and see what response they would get.

What about information that would go towards these home owners, information about what their rights are? Who is doing that for them? My suggestion to you, Mr Chair, is that nobody is doing that for them. Even if there is somebody out there who is quite willing to provide the service, they don't know anything about it. Who is responsible for letting them know? Is it the tenants who rent their basements or is it the tenants who rent their units or is it the MPPs? Who's responsible for letting them know how to get access to information about their rights and about legal aid for them?

I think it's the ministry's responsibility as well. I think quite frankly that if this was addressed, this money issue, this information issue, we may not even be put in the position of having to listen to me for the last six hours.

**Mr Owens:** On a point of order, Mr Chair.

**The Vice-Chair:** I hope it's not on the same point of order, Mr Owens.

**Mr Owens:** The point of order is that the member is straying. This is not a bargaining session; this is in fact—

**The Vice-Chair:** I'm sorry, Mr Owens, that is clearly not a point of order, but I would like to remind Mr Mammoliti again that we are at this point talking—

**Mr Mammoliti:** Are there other people on the list?

**The Vice-Chair:** Yes, there are. We are still talking to your amendment to the amendment. Obviously, I have let you speak in general terms as well, but repeatedly you came back to your amendment. If you could conclude your remarks on the amendment to the amendment, it would be appreciated.

**Mr Mammoliti:** The other issue that I think this amendment to the amendment deals with is the constitutional issue, the debate that's been brought forward in reference to the constitutional question. I'm not sure I agree with some of the lawyers that you might get individuals who might want to tackle this on the basis of the Constitution. I think that as long as the residents and the home owners are given the opportunity and a decision on how they want to live their lives and deal with any lease or contract, or none of the above, that because it falls under the scope of the Landlord and Tenant Act, depending on their decision, it would not warrant any question to the Constitution.

I think this amendment actually deals with those questions on constitutional issues. Any tenant, after this particular amendment would get passed, would be subject to what any other tenant would be subject to no matter where they would go. The only difference is they might have an option in signing a contract that might include painting the driveway for the landlord or that might include painting the railings or fixing up the yard or planting flowers. What this actually does is give tenants even more rights than they currently have with the illegal apartments we're seeing out there.

I have never been opposed to Bill 120, I have never been opposed to legalizing these units and I have never been opposed to most of the things that are in Bill 120. But there are two issues here that I was fundamentally opposed to: One of them we've dealt with already; on the second one, we are witnessing an amendment to an amendment.

We're doing that because the members who sit on this committee have some concerns about the original amendment: The Constitution, and I think I've touched on the constitutional issue, and of course the issue that Mr Wessinger's raised in reference to homes that currently are rented out complete to tenants and whether or not my original amendment would have taken that over.

1630

**Ms Christel Haeck (St Catharines-Brock):** I have a point of order. I guess it's my own clarification that is really required. Is Mr Mammoliti referring to a written contract that relates to tenancy or a written contract to work?

**The Vice-Chair:** I'm sorry, that's not a point of order, Mrs Haeck, but certainly a point of clarification that you may wish to make later on.

**Ms Haeck:** I'm sorry; I'm confused if we're talking about an employment contract or a tenancy contract.

**The Vice-Chair:** It's not a point of order.

**Mr Mammoliti:** I think it's important for me to answer that question.

**The Vice-Chair:** Mr Mammoliti, you still have the floor. We do have some other members who wish to



speak on the amendment to the amendment.

**Mr Owens:** This is absolutely outrageous.

**The Vice-Chair:** Mr Mammoliti, you're finished?

**Mr Mammoliti:** No, I'm not finished. Actually, I'd like to answer that question, if you don't mind.

**The Vice-Chair:** No, you are speaking to your amendment to an amendment.

**Mr Mammoliti:** Yes. The amendment to the amendment would allow for a tenant to make an agreement—to agree with a landlord, to agree with a home owner, in whatever way they feel fit in coming to some sort of an agreement—that the landlord would provide the unit if there's an exchange of money, usually, or money and work, for that matter.

This amendment would allow that to happen, but with the way the bill sits now, this would not be allowed because the Landlord and Tenant Act very clearly says that you're not allowed to do that.

During the hearings we had people come to us and say that they'd like that option, that they'd like to be able to have an option to sign such an agreement with their landlord, and they were very specific as well. They talked about seniors or the disabled who want to rent out those units and can't shovel the snow and they want to keep their home, or they can't paint the railings or they can't cut the grass or they can't fix the eavestroughs or they can't do any of that. This amendment would allow that process to take place. I think that's a right that tenants don't have right now. So that's something different that I certainly agree with.

I think that if you were to ask some of your home owners in your own riding, they would agree with that as well, and even some of the tenants if you laid it out to them appropriately and honestly and said to them, "This is what Mr Mammoliti proposes, this is what Mr Mammoliti would want to do. What do you think?" as I've done for the last two years with my ratepayer organizations, with my mayor and with my tenants in my riding. I have talked continually to these people from the day this bill and the bills that were there before this bill were introduced in the Legislature.

Why did I do that? I did that because I anticipated some of the concerns that might come out of the bill and I anticipated some of the concerns coming from my ratepayer organizations, my ratepayer presidents, my ratepayers themselves, the home owners and the concerns that might come across.

They came across through the mayor. I didn't agree with most of the things that Mr Lastman said; I have no reason to say that I do. Most of the stuff that he talked about, I don't agree with him on, but when he talks about the rights of home owners and tenants, then I agree with that. That's what my amendment does. It gives tenants rights they currently don't have, and I'd be willing to argue that with anybody, and it gives landlords rights they currently don't have. For me, this is very important. It's probably the 100th time I've said that for me this is very important. I think you've already seen how important it is to me during this debate.

**The Vice-Chair:** I think, Mr Mammoliti, in that

regard you're right. I can encourage you to conclude your comments, because we do have some other speakers on the amendment to the amendment.

**Mr Mammoliti:** Mr Chairman, again, on process—and I'm not sure what you told me earlier in reference to process; a question to you before I continue.

**The Vice-Chair:** We will be voting on the amendment to the amendment after we have finished the comments on the amendment to the amendment.

**Mr Mammoliti:** And then the process after that, Mr Chairman?

**The Vice-Chair:** Then we will be voting on your original amendment.

**Mr Mammoliti:** Will we be going into further discussion?

**The Vice-Chair:** Yes, there will be further debate.

**Mr Mammoliti:** In that case, I'll let individuals air their views.

**The Vice-Chair:** Mr Cordiano, on the amendment to the amendment. Ms Gigantes also wanted to talk to the amendment to the amendment.

**Hon Ms Gigantes:** No, you have it wrong again, Mr Chair.

**The Vice-Chair:** No, you had requested to speak to both.

**Hon Ms Gigantes:** No, I had requested to speak—

**The Vice-Chair:** Mr Cordiano is next.

**Hon Ms Gigantes:** Mr Chair, I—

**The Vice-Chair:** Mr Cordiano has the floor.

**Hon Ms Gigantes:** On a point of order, Mr Chair: You have misrepresented what has happened with my request to speak.

**The Vice-Chair:** Minister, I would ask you to withdraw that comment.

**Hon Ms Gigantes:** Mr Chair, I would ask you to withdraw your explanation of what happened. I had originally asked—

**The Vice-Chair:** This committee stands adjourned until a quarter to 5.

*The committee recessed from 1638 to 1646.*

**The Vice-Chair:** Could we resume the debate, please.

**Hon Ms Gigantes:** Mr Chair, if I might.

**The Vice-Chair:** It has of course been a long afternoon, and sometimes words are used that are not appropriate within the Parliament. I would ask the minister to withdraw the word that she used earlier.

**Hon Ms Gigantes:** Mr Chair, I am pleased to withdraw the word "misrepresented" if that is what you found unacceptable.

I ask on a point of order that you correct the record, because as I understand it in our informal conversations, you had misunderstood. I had originally asked to speak to Mr Mammoliti's motion, understanding we were debating the amended amendment. As I heard you rule otherwise, I asked you to withdraw my name from that speaking list. I later indicated to you that I did wish to speak to Mr Mammoliti's amendment. Then, when you

indicated to the committee that I wished to speak to both, I wish to indicate to committee members that that was to present what I had requested in an inaccurate way.

**The Vice-Chair:** That's fine, and certainly if I misunderstood which speaking list you wanted to be on, I'm sorry. You have withdrawn the remark which I found offensive and we're back to the speaking list.

Who wants to speak on the amendment to the amendment? Mr Cordiano and Mr Owens. Is that correct? On the amendment to the amendment.

**Mr Cordiano:** Yes. It's really dealing with the word "ancillary," which has been added in the amendment. I would like to ask the legal advisers from the ministry, if they would come forward again, I thought I heard in an earlier explanation that "ancillary" was interpreted as "secondary."

**Mr Melville:** That's correct, yes.

**Mr Cordiano:** Being smaller in size?

**Mr Melville:** Yes.

**Mr Cordiano:** What happens when that is not the case?

**Mr Melville:** In terms of this bill?

**Mr Cordiano:** That clause.

**Mr Melville:** It would mean that the exemption that's proposed would not apply.

**Mr Cordiano:** I'm a little confused. If there is a unit that is, as of a certain date, ancillary in the sense that even though it isn't smaller in size, it's added, and it now becomes the additional unit, this section would not apply, or this clause would then not apply? The exemption would not be permitted?

**Mr Melville:** I don't actually have the wording in front of me, but my understanding was that it was intended to restrict the exemption to the unit, which would be the ancillary unit contained within the house.

**Mr Cordiano:** I think the intention here is to make the ancillary unit exempt from the Landlord and Tenant Act.

**Mr Melville:** That's correct.

**Mr Cordiano:** Now, my question to you was, you've defined "ancillary" in terms of size. That's your interpretation.

**Mr Melville:** That's correct. That's what I said.

**Mr Cordiano:** My point is that if the additional unit which is added at some time in the future, so it's an additional unit, but that unit happens to be larger than the original unit, then this exemption would not apply for that unit?

**Mr Melville:** Can I rephrase the question? Do you mean if the dimensions of one of the units are changed so it becomes the larger unit as opposed to the smaller unit because of construction or addition or something like that?

**Mr Cordiano:** Let's suppose that I own a home and I'm going to add an accessory unit and it is now ancillary, but that unit is larger than my original unit that I live in.

**Mrs Marland:** It's still ancillary.

**Mr Cordiano:** Is it still ancillary and it still comes in under this exemption?

**Mrs Marland:** It has to.

**Mr Cordiano:** That's what I want made clear.

**Mrs Marland:** It has to be.

**Mr Cordiano:** I don't understand what—

**Mrs Marland:** I agree with you.

**Mr Cordiano:** This is very unclear and confusing, and that's the trouble I'm having here with all of this section, but I wanted to deal with this question of ancillary first.

**Mr Melville:** I think I indicated in my earlier reply to Ms Marland that the concept is not without ambiguity.

**Mr Cordiano:** Yes.

**Mrs Marland:** That's the answer.

**Mr Cordiano:** Mrs Marland repeatedly centred in on the ambiguity. To my mind it is quite unfortunate when we have sections that are not clear or the act is not clear about its intention. I know this is an amendment, but we have a whole section of definitions which are questionable in terms of their clarity. This amendment that's proposed is certainly not clear, and with this definition of "ancillary" all sorts of bizarre things could start to happen. I can only begin to imagine what those might be.

**Mrs Marland:** I said "ancillary" means secondary; it has nothing to do with size.

**Mr Cordiano:** The point is, does it or doesn't it? I think that before I would support such an amendment to the amendment I would want it made clear, and it hasn't been made clear. When we as legislators draft legislation that is completely unclear, then of course things end up being litigated, things end up in the courts endlessly.

It was suggested earlier that there is an undefined meaning to this section, or this amendment that's proposed, whether in fact it is constitutional, whether this would be deemed appropriate by the courts, given the charter. The question of "ancillary" is very important. Perhaps there should be greater definition of it. When you begin to introduce a concept like this which is unclear, such as the word "ancillary" is, then you're asking for trouble when this is headed for the courts, because in a certain situation one would argue that the unit is not ancillary and that therefore these provisions do not take effect and would look for a loophole to get out of the exemption whenever it suits someone.

We're arguing from the opposite end, but I think that's a valid argument to make, that someone enters into a contract and then they make the case that this is not an ancillary unit, and therefore this exemption does not provide and that contract is null and void now. That's sort of what I'm contemplating here. Would that not be the case? With such unclarity there is at least a case to be made.

**Mr Melville:** I think clarity is always an admirable objective in drafting.

**The Vice-Chair:** That's probably as far as we are going to get in terms of clarity about this particular amendment. Did you have any further questions?



**Mr Cordiano:** I do. The point that I'm trying to make, because this is so fundamentally altering of what really appears to be the intent Bill 120—I have some sympathy to some extent for what's being attempted in the sense of what Mr Mammoliti was attempting to redress here. I have discomfort with the notion that we may create two classes of tenants. To my mind, you need to have a very clear set of definitions and a very clear understanding on the part of both parties to a contract of just what they're entering into before we set this in legislation.

I'm not uncomfortable with the notion of contracts, because I think that if we set certain conditions, those contracts, if they're made clear and if the circumstances around the entering into a contract are made clear and all parties are fully apprised of what they're entering into for reasons that go beyond what's contemplated in Bill 120—there were some reasons that were valid that were put forward by Mr Mammoliti, I'll say, albeit very few.

I would not want to have the effect of creating a second tier of rights that were subservient to the first tier, or secondary to what was there before.

**Hon Ms Gigantes:** Ancillary.

**Mr Cordiano:** I hesitate to use that word, but what I'm suggesting is that—we'll get into this a little further tomorrow because we are quickly running out of time, but I think this is an important matter with respect to the intent of Bill 120, and the whole question of what's ancillary very clearly enters into that definition. It would not be a contract that's entered into with full knowledge and clarity if we allowed such a concept to be brought forward without understanding its impact in a court of law.

I'm not a lawyer by background, obviously, but I have been involved in drafting legislation as it's gone through the House, and quite honestly I think there are a lot of ambiguities in this bill, and to the extent that we're offering up yet another one in this section, that gives me great cause for consternation here. It hasn't been made clear to me by legal representation that these matters will not be challenged by the courts, that there are very definite grounds here for challenges that will go forward.

I will probably have an opportunity to speak to the amendment when we get to that, and that's another question I would pose, but to the extent that this question of ancillary—the things cross over because there isn't

very much clarity with respect to how that might be interpreted by the courts.

**Mr Owens:** It's your thinking that is not clear.

**Mr Cordiano:** My thinking is very clear, but it's very unclear with regard to this amendment and what its true intent will be. Well, its intent I understand. What its true impact will be I think is very questionable. The impact is something that will be left to the courts to decide and I think they will probably throw some of these sections out for their lack of clarity or their ambiguity, and that's sort of what I wanted to get from you, your interpretation of that.

**Mr Melville:** I think I've answered the question in that I said it's not without ambiguity. I'm sure that any counsel receiving instruction would be pleased to have clear direction given to them as to how to resolve the ambiguity too.

**The Vice-Chair:** We have about a minute and a half. Mr Owens is next, unless you want to adjourn until tomorrow.

**Mr Owens:** No, what I would like to do is move that the question now be put.

**Mr Cordiano:** Is there anyone else on the speaking order?

**The Vice-Chair:** No. Mr White was next.

**Mr Cordiano:** Mr Chairman, if the question is deemed to be put, I would like to move a recess for 20 minutes. That would bring us into tomorrow.

**The Vice-Chair:** You're moving a recess?

**Mr Cordiano:** Yes.

**The Vice-Chair:** Mr Cordiano has moved we recess. Can we just recess and get some advice from the clerk.

**Mr Cordiano:** Well, it being 5 of the clock, Mr Chairman—

**The Vice-Chair:** We're not quite at that point yet. Could we just give the Chair a few minutes to consult with the clerk.

**Mrs Marland:** I think the committee is adjourned automatically by the clock.

**The Vice-Chair:** I am advised that Mr Cordiano has asked for 20 minutes, so the vote will be tomorrow. This committee stands adjourned until tomorrow morning at 10 o'clock.

The committee adjourned at 1700.







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### STANDING COMMITTEE ON GENERAL GOVERNMENT

**Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

**\*Dadamo, George** (Windsor-Sandwich ND)

Fletcher, Derek (Guelph ND)

**\*Grandmaître, Bernard** (Ottawa East/-Est L)

**\*Johnson, David** (Don Mills PC)

**\*Mammoliti, George** (Yorkview ND)

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

**\*Wessenger, Paul** (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Cordiano, Joseph (Lawrence L) for Mr Sorbara

Haeck, Christel (St Catharines-Brock ND) for Mr White and Mr Fletcher

Marland, Margaret (Mississauga South/-Sud PC) for Mr Arnott

Morin, Gilles E. (Carleton East/-Est L) for Mr Brown

Owens, Stephen (Scarborough Centre ND) for Mr Morrow

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Fletcher

#### **Also taking part / Autres participants et participantes:**

Ministry of Housing:

Gigantes, Hon Evelyn, minister

Dowler, Rob, manager, planning and building policy section

Lyle, Michael, legal counsel, rent control section

Melville, Tom, legal counsel

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Yurkow, Russell, legislative counsel





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## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

## Official Report of Debates (Hansard)

Thursday 10 March 1994

## Journal des débats (Hansard)

Jeudi 10 mars 1994

### Standing committee on general government

Residents' Rights Act, 1993

Chair: Michael A. Brown  
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### Comité permanent des affaires gouvernementales

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Président : Michael A. Brown  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENT

Thursday 10 March 1994

The committee met at 1027 in the Humber Room, Macdonald Block, Toronto.

RESIDENTS' RIGHTS ACT, 1993  
LOI DE 1993 MODIFIANT DES LOIS  
EN CE QUI CONCERNE  
LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** As members know, the purpose of the committee meeting this morning is to continue the clause-by-clause review of Bill 120.

**Mrs Margaret Marland (Mississauga South):** It's nice to see all the new faces over there.

**The Chair:** Just before we proceed to vote on the motion by Mr Owens that the question now be put, I would like to clarify to the committee the implications of the motion at hand.

I draw the members' attention to standing order 47, under which Mr Owens's motion was made. Standing order 47 states, "A motion for closure...shall preclude all amendment of the main question." It further states that if it is passed, "the original question shall be put forthwith and decided without amendment or debate."

As the committee knows, the motion currently under consideration is an amendment to an amendment to section 1 of the bill. The committee will also know that two amendments to section 1 have carried and that there are further amendments to this section of the bill which have been moved, and then, by unanimous consent, consideration stood down.

I would like to clarify the interpretation of the term "main question" as set out in the standing orders. The question presented to me is whether or not in the case of a closure motion on an amendment to the amendment the question is to be put on the original amendment by Mr Mammoliti or on section 1 as it has so far been amended. In reviewing precedents on this matter, I find that the main question is indeed the section and not the original amendment. I draw members' attention to a decision by Speaker Turner on this subject on November 3, 1981.

I would now like to make it clear to all members that a decision in the affirmative on the closure motion would mean that the next question to be put would be, "Shall section 1, as amended, carry?" We are now ready for the vote.

**Mr Drummond White (Durham Centre):** Can we discuss that?

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Jeudi 10 mars 1994

**The Chair:** We're taking a vote.

**Mr White:** I realize that, but—

**The Chair:** There's no discussion.

**Interjection:** There's no debate on the ruling. The Chair has the floor.

**The Chair:** No, there's no debate on the ruling.

**Mr George Mammoliti (Yorkview):** Mr Chairman, just a question on the ruling.

**The Chair:** There's no question. I'll take the vote.

**Mrs Marland:** Recorded vote.

**The Chair:** All in favour of Mr Owens's motion that the question now be put? Those opposed?

## Nays

Cooper, Cordiano, Dadamo, Daigeler, Grandmaître, Johnson (Don Mills), Mammoliti, Marland, White, Wilson (Kingston and The Islands), Winner.

**Mrs Marland:** On a point of order, Mr Chairman: How is this in order when Mr Owens is not here?

**The Chair:** The question has been lost. We will then continue with debate on Mr Mammoliti's—

**Mrs Marland:** On a point of order, Mr Chairman: How can a vote be—

**The Chair:** We will now continue on Mr Mammoliti's amendment to his amendment. Now, a point of order, Mrs Marland.

**Mrs Marland:** We're welcoming you back, Mr Chair.

**The Chair:** Thank you. I—

**Mrs Marland:** I know, you must have been. How is it in order for a motion to be moved in the absence of the mover of the motion?

**The Chair:** The motion was actually made yesterday, Mrs Marland, and therefore it is in order. Mr Mammoliti is speaking to your amendment.

**Mr Mammoliti:** Yesterday was actually a pretty emotional day for all of us, including myself. There were, after reading Hansard, some legitimate concerns brought forward by both the Conservatives and the Liberals. There was some question in terms of language to the amendment and to the amendment to the amendment.

For that reason, Mr Chair, without going into any further debate I really would want to get unanimous consent to stand this amendment down so that we can proceed with other matters, and then come back to this when we all get a chance to maybe look at this a little further and debate it a little further.

**The Chair:** Mr Mammoliti has asked that the amend-

ment be stood down. Do I have unanimous consent to stand the amendment down? Agreed. I would believe I'd need a motion to stand the amendment down also.

**Mr Mammoliti:** I move to stand the amendment down as well, Mr Chair.

**The Chair:** Agreed? Agreed.

I believe, in light of what Mr Mammoliti has obtained unanimous consent for, we then move to Mr Cordiano, who wishes to make a further amendment to subsection 1(4).

**Mr Joseph Cordiano (Lawrence):** We're back to the set of motions that I had put forward.

I move that section 1 of the bill be amended by adding the following subsection:

"(4) The definition of 'residential premises' in section 1 of the act is amended by adding the following clause:

"(j.1) accommodation occupied by persons in residential premises for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy, who are subject to an agreement between the provider of the accommodation and a municipality with respect to general welfare recipients, or"—the word "or" ends that.

**The Chair:** An explanation, Mr Cordiano, for making this amendment.

**Mr Cordiano:** This specifically deals with concerns raised during the course of our hearings around facilities that provide care services and their continuing ability to receive occupants or residents by agreement with municipalities, those that are receiving general welfare under the act that governs that for convalescent care or respite care or for an ongoing period of time that would be deemed to be of a temporary nature.

There was some question about whether this might be permitted when Bill 120 was in fact enacted, so this is an effort to rectify that problem.

**Hon Evelyn Gigantes (Minister of Housing):** As I read this amendment, and I'd be grateful for Mr Cordiano's comments, what it would have the effect of doing is permitting facilities such as boarding-houses and lodging-houses and rooming-houses that operate under the domiciliary hostel program to operate outside the Landlord and Tenant Act. In other words, the people who would be living in rooming-houses, boarding-houses or lodging-houses funded through the domiciliary hostel program would not have the benefit of the protections of the Landlord and Tenant Act, and in particular protection of due process on eviction.

**Mr Cordiano:** I think it is a problem that, in effect, Bill 120 will preclude the kinds of agreements that now exist between care homes and municipalities over receiving GWA-type residents.

**Hon Ms Gigantes:** No.

**Mr Cordiano:** You're saying, Minister, that is not the case. Your explanation in fact spoke about the problem that would prevail, that is to say that the Landlord and Tenant Act would not apply to these residents.

I'm suggesting that their contracts would take precedence over that and it would continue to be the case, and

that's the reason for this amendment. You're suggesting that in fact the Landlord and Tenant Act should apply, and that the contracts that have up until this point been made between a municipality and the care providers be superseded by the Landlord and Tenant Act.

I'm suggesting there's no flexibility in that between municipalities and care providers, and therefore this amendment is necessary to continue to provide the flexibility that is now present for these kinds of agreements to take place in the future once Bill 120 is passed.

**Hon Ms Gigantes:** I can't support this proposal because it will mean that people who are living with assistance in the domiciliary hostel program—and many of these people are extremely vulnerable people, just the kind of people about whom Dr Lightman has reported to us and about whom he has raised the issue of the need for protection under the Landlord and Tenant Act.

In fact it would be precisely the kind of situation that Joseph Kendall lived in that we hope to address, urged on by Dr Lightman's report, that we would be neglecting in terms of landlord-tenant protection for residents if we were to support this amendment. I cannot support it.

**Mr David Johnson (Don Mills):** Perhaps a question to the minister. As I understand this, and I'm trying to recall some of the deputations that came to us, there were some care facilities that if they had some beds, some rooms that were available, apparently entered into a contract with the local municipality to take GWA cases. They may take three or four or a handful or whatever.

It wasn't the prime purpose, as I can recall, of some of the care homes, but they did that. It's probably good for them to have full occupancy, and it was probably good for the municipality in terms of making arrangements for people who needed some kind of support.

1040

The concern, as I understand it, is that if such a facility in general is not exempt from the Landlord and Tenant Act, with the amendment that was put through yesterday or some time this week at any rate, if the average stay is now 18 months, there'll be more and more facilities that will be exempt.

I grant you that, but there would still be several facilities, many facilities, that will not be exempt. Consequently, if they permit GWA cases to come in for a short period of time, they would have no way of turning those rooms over. In other words, if the GWA case chose to stay there, they would be governed by the Landlord and Tenant Act and they could stay in that facility as long as they wished.

I don't know if that's the intent of the government and you will achieve that, but my guess is that these care homes will be less likely to enter into an agreement because they will have no confidence that in fact they can free up those rooms as they do today to serve the people they were originally intended to serve.

**Hon Ms Gigantes:** I can certainly appreciate the concern that you're raising. I think, however, that it is dealt with in the proposed amendment that we will be coming to shortly which has to do with the understanding of a contract or a term of time associated with the stay.



**Mr David Johnson:** You're talking about the two-year business.

**Hon Ms Gigantes:** I'm talking about two years.

**Mr David Johnson:** Is it your expectation then that with each of the GWA cases there be a contract entered into for a specific length of time?

**Hon Ms Gigantes:** I'm being nodded at by a lawyer for the minister who is pointing out to me by his nod that I'm misinterpreting what the effect of our amendment will be.

**Mr David Johnson:** Could we have the lawyer then explain? Which lawyer is that? Where is the nod coming from? Are you guys nodding over there? Would it be possible to have an explanation by the appropriate staff?

**The Chair:** Would that be suitable, Minister?

**Hon Ms Gigantes:** I can see they're excited and pleased at the thought.

**Mr Bernard Grandmaitre (Ottawa East):** Their joy of yesterday has not ended.

**Mr David Johnson:** They had so much fun yesterday.

**Hon Ms Gigantes:** I think their concern may be that they're going to have to contradict me, and they should not feel that concern.

**The Chair:** Please introduce yourself for the purposes of Hansard.

**Mr Michael Lyle:** My name is Michael Lyle. I'm a legal counsel with the Ministry of Housing. Would you like some clarification?

**Mr David Johnson:** You've heard the conversation here. You were apparently nodding your head.

**Hon Ms Gigantes:** He was grimacing.

**Mr Lyle:** The amendment adding section 2.1 which the government has proposed would allow for evictions where the term of a rehab and therapy program has run its course. It's not clear to me if the situation you're referring to would be a program of rehabilitation and therapy, so it's not clear to me that this provision would apply in that case.

**Mr David Johnson:** In the case of GWA then for example, where there's a contract for a certain period of time, the way it's set up right now, it's not clear to you that it would apply to that particular case.

**Hon Ms Gigantes:** It wouldn't.

**Mr David Johnson:** Indeed, that individual then would be governed by the Landlord and Tenant Act if in fact the average stay was over 18 months in that home, as all the amendments stand at the present time. Consequently, there would be no way of gaining control of those rooms back. In fact the GWA clients could stay there as long as they wished with the protection of the Landlord and Tenant Act.

**Mr Lyle:** As I understand it, and I'd be happy to be contradicted by our policy people, in the GWA situation, we're not talking about people in receipt of rehabilitation and therapeutic services.

**Mr David Johnson:** Yes. You're right.

**Mr Lyle:** If that's the case then, the 18-month exemption is not an issue here. The extra ground for

eviction, which deals with the situation of people in receipt of rehabilitation and therapy services, does not apply either.

**Mr Cordiano:** If I may just add to that, the point is that there are situations where it is desirable for someone to be in a home for a short duration, whatever period of time that may be. It's considered a short duration. It's not a long-term stay. It's not to make this their permanent residence or a long-term residence. It is because perhaps family members are going away for a trip or a period of time and the kind of care they normally would provide would have to be provided by someone else. So there is some kind of consideration for that.

That's what this amendment contemplates, those kinds of circumstances. Certainly that would not be covered by the exemptions that are made under the other sections the minister spoke about. We're still concerned because these contracts are in fact being made between municipalities and care homes. This would cover off that particular circumstance.

**The Chair:** We're going to try to have policy help you out, Mr Cordiano.

**Mr Cordiano:** I don't need their help. I'm just trying to put forward my point of view on why I suggested this amendment. It may be that the ministry has a different view of this, but they're welcome to comment.

**Mr Scott Harcourt:** I'm Scott Harcourt from the Ministry of Housing. Indeed, what Michael Lyle said was correct. The situation that Mr Cordiano was referring to has to do with respite care. In that situation, it's true that there's nothing in Bill 120 that in fact stops an agency from providing respite care. The situation would be that yes, they would fall under the Landlord and Tenant Act.

The only situation that would occur would be that if the resident did not want to leave at the end of their stay, they couldn't be evicted, other than going through the Landlord and Tenant Act. There is not a provision in the Landlord and Tenant Act that would allow eviction in that situation.

**Mr David Johnson:** So the Landlord and Tenant Act would be of no use either?

**Mr Harcourt:** No, you couldn't evict under the Landlord and Tenant Act.

**Mr Cordiano:** What you're telling us is that these rooms could not be turned over, which is the stated intention and purpose of providing that kind of care by these homes. You're eliminating that usage.

**Hon Ms Gigantes:** They couldn't be turned over against the wishes of the resident. That's correct.

**Mr Cordiano:** I rest my case. I don't think anything further needs to be said.

**Mr Harcourt:** There is nothing to prohibit that agreement from occurring. It's just that if the resident didn't wish to leave, it's true that they could not be evicted on that basis.

**Hon Ms Gigantes:** Let us be frank. We're not talking about respite care here. We're not talking about convalescence. In those cases, as we generally understand, what you're dealing with is the intent by the resident and the

resident's family to provide short-term accommodation. What you're really concerned about is people in receipt of social assistance whom you may not wish to see stay for a long period of time. If that's your concern, why don't you say it up front?

**Mr Cordiano:** Minister, I'm going to take you to task on this—

**Hon Ms Gigantes:** I'm going to suggest—

**Mr Cordiano:** —because I find it completely unacceptable—

**The Chair:** Mr Cordiano, the Chair—

**Mr Cordiano:** —what I say—

**The Chair:** Order.

**Mr Cordiano:** That's why you take it upon yourself—

**Hon Ms Gigantes:** Oh dear, dear.

**The Chair:** Minister, you have the floor.

**Hon Ms Gigantes:** What the effect of the amendment would be, if I could draw my concern to Mr Cordiano's attention, is that the amendment is such that it would provide a sweeping exemption for situations in which people who are receiving assistance through the domiciliary hostels program would not be able to have secure accommodation in a rooming-house, a boarding-house or a lodging-house. That puts that person in a great deal of anxiety and in a situation where the person is vulnerable to all kinds of pressures from the landlord. I'm not satisfied to see that happen and therefore I will not support the amendment.

**Mr Cordiano:** What you are, in effect, doing is forcing homes to say they will no longer take these types of residents for fear that there are not proper contracts in place, for fear that there are not stated intentions at the beginning of their occupancy for that facility. It's not to say or suggest that a home would not accept someone in those circumstances. I don't believe that is the case at all. But you're trying to force the issue by insisting that, after the fact, nothing could be dealt with in respect of turning those rooms over.

1050

You're trying to change horses in midstream, as I see it. That is completely inconsistent, what I think is honest about what your stated intentions are. I think it has to be very clear that in fact you're saying to these homes, "You're no longer going to be permitted to do this. This is the way they're going to interpret it," because you're tying their hands in effect. You're not allowing them to turn these rooms over.

In theory, what could happen is that these residents may stay in those homes, because no one wants the responsibility of dealing with it. Once they have found a home in one of these places—and I understand these are difficult circumstances, but to say to a home, "You're going to have to accept this," whether in fact the stated conditions were clear from the beginning about accepting a resident, I think is unacceptable.

**Hon Ms Gigantes:** That's fine. We disagree.

**The Chair:** Further questions, comments to Mr Cordiano's amendment?

**Mr David Johnson:** Just a question to the staff then. I wonder if the staff hadn't thought that one aspect of this may be to reduce the number of these kinds of arrangements, I guess, or agreements that would be entered into. That would be sort of an unpleasant side-effect to this whole thing.

If operators knew that they now had no control in terms of gaining control of those units back at some point in time and that the Landlord and Tenant Act would kick in and, as you've indicated, there would be no cause for eviction under the Landlord and Tenant Act, wouldn't they be somewhat reluctant to enter into these agreements in the first place? Couldn't that be to the detriment of people who need that kind of short-term stay?

**Mr Harcourt:** The only situation where there could be a reluctance is if the operator felt that the resident who is coming in for their short-term stay wouldn't leave at the end of that agreed-upon period.

**Mr David Johnson:** How could you tell that?

**Mrs Marland:** How do you know that?

**Mr Harcourt:** You may not be able to tell that, certainly, but the situation where that was likely to happen I don't think is that likely.

The other thing I should mention is that if rooms were put aside specifically for a short-term stay or for respite accommodation, they would in fact be exempt by the fact of being emergency shelter for a short-term stay under the Landlord and Tenant Act.

**Mr David Johnson:** Oh, okay, so—

**Mr Harcourt:** That would be if specific rooms were put aside.

**Mr David Johnson:** Maybe you should clarify that: if they were specifically set aside.

**Mr Harcourt:** If there were specific rooms set aside.

**Mr David Johnson:** How do they do that? How do they specifically set them aside? Somehow designate them?

**Mr Harcourt:** Correct. They would just designate them for short-term stays. It's as simple as that.

**Mr David Johnson:** They have to designate them to the ministry or—

**Mr Harcourt:** No. Under the Landlord and Tenant Act the only way it could be challenged is through the courts, so it would be the onus upon somebody to take it to court.

**Mr David Johnson:** So then it would be to the advantage of the operators if they were in that kind of mode on a regular basis to designate a certain number of units that way.

**Mr Harcourt:** Absolutely.

**Mr David Johnson:** And then they would not come under the provisions of the Landlord and Tenant Act.

**Mr Harcourt:** That is correct.

**Mr David Johnson:** But if they failed to designate them, whatever—I'm not sure. How do you designate? Do you write it on a piece of paper or something, after the fact, and you say, "I designated them"? How does that happen?



**Mr Harcourt:** Whether they write it on a piece of paper or not I'm not sure is all that relevant. It would be up to them to prove in court if they were challenged that they were for emergency shelter.

**Mr David Johnson:** So then an operator might evict somebody, saying, "I had designated that unit for emergency shelter." The tenant of course would then be evicted, but the tenant could take the operator to court and say, "You didn't designate it."

**Mr Harcourt:** That's correct. And the burden of proof would be on both parties to show that in fact that was or wasn't the case.

**Mrs Marland:** Well, it's what I've been saying all along. It's more money for the lawyers and more protracted hearings in the courts.

I'd like you to tell me what section it is in the Landlord and Tenant Act that covers the special designation of use.

**Mr Harcourt:** Clause 1(j), "short-term accommodation provided as emergency shelter" is designated as exempt under the Landlord and Tenant Act.

**Hon Ms Gigantes:** Have you heard this, Mr Cordiano? I think you've missed all this useful information.

**Mr Cordiano:** Was it useful, Mrs Marland?

**Hon Ms Gigantes:** Yes.

**The Chair:** Mrs Marland.

**Mrs Marland:** Clause (j) says "short-term accommodation provided as emergency shelter." I don't think in a court of law you would have emergency shelter defined as respite care. So if you can show me where it says "respite care," I can—

**Mr Harcourt:** The term "respite care" is not in the Landlord and Tenant Act.

**Mrs Marland:** No, I didn't think it was. So where does your answer hold in response to the concerns that Mr Cordiano and Mr Johnson are asking about?

**Mr Harcourt:** It is the belief of the Ministry of Housing that in fact places which provide respite care would in fact qualify under that exemption.

**Mrs Marland:** But you know, with respect, we get these answers, and I want to tell you something that I am tremendously upset with and it isn't anything that you have said, but this week we had before this committee—what was she?—an assistant deputy minister. I was thinking it was the acting one earlier in the morning.

But in the afternoon we had an assistant deputy minister, Ms Roch, and the other person who was with her whose name I can't recall right now, tell us that there were service providers that were happy with the Landlord and Tenant Act coming into force in their operations.

I asked them at least three times to give us the names of those service providers and the first two questions they waffled and ignored, and finally, the third time I asked the question, we heard I think it was Homes First.

**Hon Ms Gigantes:** This is not—

**Mrs Marland:** Do you know that I'm just waiting for a letter to be delivered to my office today? It's a copy of

a letter that went to the Minister of Community and Social Services from Homes First which is completely opposite to what that assistant deputy minister told this committee. I'm not allowed to use the word "misleading," but I can tell you, when I get that letter, I am going to ask this committee to ask that assistant deputy minister to come back before this committee and clarify her comments.

The reason I'm so cross about it is that all of us sitting on this committee are trying to do a job—all of us; we're all trying to serve the interests of the people in this province. None of us on this committee are assistant deputy ministers and for the most part, I don't think any of us will be. So we are trying to separate the wood from the trees in dealing with this legislation—

**Hon Ms Gigantes:** How is this in order, Mr Chair?

**Mrs Marland:** —and we are dependent on the information that is given to us. If you don't understand, Madam Minister, what this has to do with what we're discussing this morning, that's probably part of our problem.

**Hon Ms Gigantes:** I do understand, unfortunately.

**The Chair:** Through the Chair.

**Mrs Marland:** The thing is that we've just had another answer which says of course this motion isn't needed because in the Landlord and Tenant Act there is something that would exempt the kind of use that Mr Cordiano is trying to address here. Yet, when we come to it, it isn't in the Landlord and Tenant Act and we get an answer, "Well, the ministry interprets it this way."

I'm sorry, it isn't the ministry that makes the final decision of interpretation, it's the courts. You're going to get some judge presiding in some court who doesn't agree with the ministry's interpretation because that's not what the Landlord and Tenant Act says. If the Landlord and Tenant Act says "emergency shelter" or "respite care," fine. But don't tell me that emergency shelter means respite care unless you say it in your own act.

I'm sorry, you can't arbitrarily say the Ministry of Housing makes that interpretation, which is what you just said, because, in fairness, it's not your jurisdiction that will make the final interpretation and I think that it's totally false for us to go with making decisions on this committee based on something that is not in the act or, as I said yesterday, is poorly worded in the act that's before us in terms of 120.

I'm glad the minister finds this so entertaining.

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**Hon Ms Gigantes:** I find you entertaining.

**Mrs Marland:** You know, I think we all get very insulted by the fact that when we ask questions that this particular minister thinks are humorous or superfluous, her whole demeanour and body language, let alone what she actually says, are very disconcerting for us because we're trying to do a job.

**Mr Gary Wilson (Kingston and The Islands):** On a point of order, Mr Chair: I don't see what this has to do with the motion that's in front of us.

**Mrs Marland:** Then you weren't listening.

**The Chair:** That isn't a point of order, of course. You can always speak to the amendment that is before the committee.

**Mr Gary Wilson:** You can only listen so long, Margaret.

**Mrs Marland:** If you don't know what this has to do with the motion in front of us, then you weren't listening to the reply of your own staff, Gary. That's all I can say.

The Landlord and Tenant Act does not refer to respite care. I'll tell you why the concerns of Mr Cordiano and the concerns of Mr Johnson and myself are so valid. It's because of the fact that with all of the cutbacks in funding to regional municipalities and regional government, which are some of these service providers, there are huge waiting lists for permanent accommodation for people who can no longer be looked after at home.

You've got to be Alice in Wonderland if you believe that people will not use this respite care entrée into a facility knowing full well, "Boy, I'll get them in there and then Aunt Bertha or Uncle John or my mother or father is going to be protected, because then they'll be under the Landlord and Tenant Act."

It won't be a little piece of paper stuck on a door that says, "This is a temporary room," that will work, I can assure you, and it certainly won't be the Landlord and Tenant Act that's going to be any help in an argument in the courts. You just can't say black is white unless there's an argument to support what it is you're saying in an existing statute, because that's the only thing anybody has to fall back on.

**Hon Ms Gigantes:** I'm going to take the opportunity to read a description from Dr Lightman of the kind of contract situation, the kind of accommodation need, that we're talking about here. It's from page 142 of his report. He says:

"A domiciliary hostel contract is between a municipality and individual operators; residents are effectively disempowered. In theory, residents can take control by leaving particular boarding homes and going elsewhere; in practice, however, individuals are often 'placed' in specific settings. (Nevertheless, we were told that the competition among operators in one community is so severe that hostel residents are 'recruited' at local coffee shops and given small inducements, such as cigarettes, to leave one home and enter another. Residents indicated there was no point in moving as 'all these places are basically the same'. We have also heard of financial inducements being offered in return for directing clients to certain settings.)"

This market condition, this market description which Dr Lightman has given us is certainly borne out by evidence from other people. What it indicates is a situation in which, far from the situation being described by members in the opposition, which is that operators are so anxious to get rid of people, operators are out trying to get people in to fill empty spaces that they can only receive payment for if they manage to get somebody placed in a bed, in a room, with public money.

In addition to the fact that the description of the marketplace that's going on here is not a very real one,

and while Ms Marland would prefer to have, for the benefit of courts, each word in the English language defined within each piece of legislation that we pass here, I think the reading that has been given to us of the Landlord and Tenant Act and the opening that there is for operators to designate rooms, if in fact they wish to have a situation where they think they're going to want to evict people although, if we read Dr Lightman, that's not likely to be the case—I think, all in all, we should proceed on this motion and deal with it.

It is not an acceptable motion, in my view, and I do feel satisfied, particularly following the discussion, for which I'm very grateful, and the assistance that we've had about how to read the Landlord and Tenant Act in this connection.

**Mr Cordiano:** Minister, this is again a fine example of coercive Utopianism. You've misinterpreted—I think, at the very best, you've misunderstood how this operates. You've just said that operators are looking for residents.

**Hon Ms Gigantes:** Dr Lightman says.

**Mr Cordiano:** Well, Dr Lightman. You've quoted him and you've said the problem is that they're out there looking for people because there are so many empty beds.

This amendment that I put forward deals with those beds in a home that are designated to be temporary in nature. It does not deal with the other number of beds that are vacant, may be vacant or may be filled, depending on the circumstances, depending on the economic climate.

That may be the case today when Dr Lightman looked at this situation, but we're not talking about beds that are designated for permanent residents that are there for a long duration. We're talking about beds that have been set aside by a home for a temporary duration. If that's being made out to be longer-term in nature, well then, of course, that is not the case, this wouldn't apply. I don't think there would be a problem with that.

You're talking about residents that would be there for a longer-term duration and a contract that would be set up by a municipality and a home that would deal with residents that are there for a temporary period of time. As the operators see it, these are temporary, short-term contracts. They're not contracts that are put in place for five, 10 years.

That's not what the evidence suggests, unless you have other evidence to show us, contracts that have been put in place where residents are then situated in these homes for a long period of time. We have not seen evidence of that. The contrary is true; the opposite is true. In fact, you have these homes requesting that these beds continue to be turned over and that's the basic premise of this.

Anyway, we have a disagreement, so why don't we move on, Mr Chairman.

**The Chair:** Further questions or comments to Mr Cordiano's amendment to subsection 1(4)? Shall Mr Cordiano's amendment carry?

**Mr Cordiano:** A recorded vote.

**The Chair:** A recorded vote has been requested. All those in favour?



**Ayes**

Cordiano, Grandmaître, Johnson (Don Mills), Marland.

**The Chair:** All those opposed?

**Nays**

Cooper, Dadamo, Mammoliti, White, Wilson (Kingston and The Islands), Winniger.

**The Chair:** The motion is defeated.

**Mr David Johnson:** Mr Chair, just a question to you. I note by my calendar that today is Thursday the 10th. We did have some discussion earlier in the week about some reports that were, as I understand it, going to be tabled today. There was agreement that there would be reports with regard to municipal liability, status of the fire regulations and the—I see the minister nodding her head. Of course, Thursday hasn't gone yet, but could we be apprised of when those reports will be before us today?

**Hon Ms Gigantes:** At 2 o'clock.

**The Chair:** The minister says 2 o'clock.

**Mr David Johnson:** Fine, thank you.

**The Chair:** That completes, I believe, the amendments I have to section 1. Are there further questions, comments or amendments regarding section 1?

Members would find that because we have stood down a number of amendments to section 1, I would need, at this point, unanimous consent to stand section 1 down till they're dealt with. Agreed? Agreed.

Moving right along to section 2, do I have questions, comments or amendments to section 2?

**Hon Ms Gigantes:** I'm quite prepared to move an amendment. I don't know if this is the one you want to hear at this stage.

**The Chair:** If not, shall section 2 carry?

**Mrs Marland:** Just a second, there's a government amendment and there's a Liberal motion.

**Hon Ms Gigantes:** I have indicated to the Chair I'm prepared to move an amendment. I don't know if that's the right—

**The Chair:** Just to be helpful to members, the procedure here is we will deal with section 2. These are new sections to section 2. We have to deal with section 2 before we get to them. There's nothing out of order here. It's just a rather strange procedure, even in my view, Minister.

Shall section 2 carry? Carried.

**Mrs Marland:** Really, I don't understand that vote.

**Mr Mike Cooper (Kitchener-Wilmot):** Section 2 is carried. We are now going to 2.1, a new section.

**Hon Ms Gigantes:** Gary, can you move it? You've got it there.

**Mr Gary Wilson:** I move that the bill be amended by adding the following section:

"2.1 Subsection 110(3) of the act is amended by striking out 'or' at the end of clause (d), by adding 'or' at the end of clause (e) and by adding the following clause:

"(f) the accommodation was occupied solely for the

purpose of receiving rehabilitative or therapeutic services agreed upon by the tenant and landlord, no other tenant of the building in which the accommodation is located occupying the accommodation solely for the purpose of receiving rehabilitative or therapeutic services is permitted to live there for longer than two years, and the period of tenancy agreed to has expired."

**Mrs Marland:** Wait a sec, my wording is different. I was with you so far. I was with you halfway and then it changed.

**Hon Ms Gigantes:** Could I just draw to Ms Marland's attention that I had noted there was a rephrasing in the amendment which had been distributed to members of the committee. I believe this occurred two days ago, and I tried to make sure that everybody understood we needed to substitute one amendment for the other.

**Mrs Marland:** Thank you.

**The Chair:** This amendment is not in order as subsection 110(3) of the act is not open in this bill. We can deal with this if someone would like to ask for unanimous consent.

**Mr Gary Wilson:** I'd like to ask for unanimous consent.

**The Chair:** Mr Wilson has asked for unanimous consent to deal with this.

**Mrs Marland:** What I wanted to ask was, could we have an explanation of what this is before we decide whether we want to open that section of the bill?

**Hon Ms Gigantes:** That's debating it before having it in order.

**The Chair:** Before it's on the floor, that's right.

**Mrs Marland:** No, it's an explanation. I won't ask any questions, just the mover explain it and then I'll know whether I want to open the bill to consider it.

**The Chair:** That is a little unusual.

**Mrs Marland:** But the whole thing's a little unusual.

**The Chair:** Given the circumstances, I think that could be permitted.

**Mr Gary Wilson:** If I may, I'll just say that in the submissions we heard before the committee, there was some concern about the time element involved here and that we felt this provided another ground for eviction that the providers of the services especially were eager to see. We think this goes some way to meeting their—I should say too the opposition's—concern that there be this added ground for eviction.

**The Chair:** Mr Wilson has asked for unanimous consent. Do we have—

**Mrs Marland:** Could we have five minutes to read this? I can't now ask questions because I said I wouldn't, and of course I always do what I'm told.

**The Chair:** I think that is a reasonable request under the circumstances.

**Mrs Marland:** Then I can go over and ask him.

**The Chair:** The committee will reconvene at 1125.

*The committee recessed from 1115 to 1126.*

**The Chair:** Order. Mr Wilson has asked for unanimous consent for section 2.1. Agreed?

**Mrs Marland:** Mr Chair, I have a question. What Mr Wilson was asking was to open a section of the Landlord and Tenant Act that isn't being opened by Bill 120. So if we agree to deal with Mr Wilson's motion, the government motion, then we open subsection 110(3) of the act.

My question to you is, once that section is opened and we deal with this motion on the floor, then is that section open for any other subsequent amendments to that section? Once it has been opened for one amendment, would it be open for others?

**Mr Cooper:** For unanimous consent.

**Mrs Marland:** I'm not asking you, Michael. You're not in the chair.

**Mr David Johnson:** Thanks for your advice. It's probably wrong, but thanks for it anyway.

**Mrs Marland:** You're bad.

**The Chair:** I'm just reading the motion, Mrs Marland. I'll be with you in a moment.

**Mrs Marland:** Thank you, Mr Chair.

**The Chair:** Mrs Marland, the unanimous consent applies to subsection 110(3) of the act precisely. So we are only opening that particular section that is delineated in the motion that Mr Wilson made. Any other section could be opened by unanimous consent.

**Mrs Marland:** Then, having asked that question, could I just ask, if we're going to be working together and we're going to have unanimous consent to do this for this section of the act, is there any likelihood that we might have unanimous consent when our side might want to move an amendment to that same unopened section of the bill but a different subsection? Could we possibly dream in Technicolor?

**The Chair:** Mrs Marland, as you know—

**Mrs Marland:** I'm talking through the Chair, as you know.

**The Chair:** I always thought you were. Unanimous consent may always be asked.

**Mrs Marland:** Requested, yes. I was just wondering if we might get some encouragement.

**The Chair:** Do we have unanimous consent? Agreed.

Now, do I have questions, comments or would you like to make another explanation, Mr Wilson?

**Mr Gary Wilson:** No, I think I'll leave it at that, Mr Chair.

**The Chair:** Further questions or comments?

**Mrs Marland:** I'm glad we're dealing with this government motion, and I do have an amendment to it. The amendment that I would have would be—actually, I was going to—

**The Chair:** Do you have a copy, Mrs Marland?

**Mrs Marland:** No, I haven't written it yet—

**Mr David Johnson:** Do you want me to write it?

**Mrs Marland:** —but I could write it and you would be able to read it.

After the first comma, it says, "no other tenant of the building," etc. I was tempted to move an amendment which said, "no ancillary tenant," but I decided that I

wouldn't do that. My amendment would be to remove that part that refers to "no other tenant of the building" right down to "two years," I guess: all the way through to the next comma. I don't know whether an amendment is in order that removes a part of your sentence.

**The Chair:** You may make an amendment which deletes.

**Mrs Marland:** All right. My amendment would be to delete after—I'll read it. I agree with where it says, "the accommodation was occupied solely for the purpose of receiving rehabilitative or therapeutic services agreed upon by the tenant and the landlord," comma. My deletion would be "no other tenant of the building in which the accommodation is located occupying the accommodation solely for the purpose of receiving rehabilitative or therapeutic services is permitted to live there for longer than two years," comma. That would be the deletion. Then I would still agree with "and the period of tenancy agreed to has expired." So I'm just deleting that portion between the commas, as I've identified. That would be my amendment.

**The Chair:** Is the clerk comfortable that he can write that up in a suitable form?

**Mrs Marland:** Would you like me to write it up?

**The Chair:** I think that's straightforward enough that it can be put. Mrs Marland has placed an amendment to the amendment. Would you like to speak to your sub-amendment, Mrs Marland?

**Mrs Marland:** I think probably everyone understands why I would be making it. This motion by the government is going in the right direction towards meeting the needs that the service providers told this committee about when they appeared before us, but it still has this narrowing condition, and the narrowing condition is the part that I wanted to remove.

**Mr David Johnson:** Can I just elaborate? Again, I think the basic direction that the government is going in here is a positive one too, and we've heard this kind of concern. But as I understand what they're proposing, if you have a facility and that facility is for rehabilitative or therapeutic services, then if you have an agreement with the tenants in that facility and if no tenant—now here's the narrowing feature. If no tenant—is "tenant" the right word? If no resident, no tenant within that facility, has stayed there for longer than two years, so we're not talking about an average, we're talking about—

**Interjection:** An absolute.

**Mr David Johnson:** Yes, an absolute. Not one tenant could be there for longer than two years. So you could have a whole bunch of them for under two years and you could have one for over two years, and this clause would not click in.

But at any rate, if you meet all of those conditions and your period of rehabilitation or therapy has expired, then the operator could evoke the Landlord and Tenant Act; you have to go through the regular provisions of the Landlord and Tenant Act. In other words, it's another point under the Landlord and Tenant Act to initiate an eviction. You still have to go through the same process.

The fly in the ointment here is that if you have one



person, just one person, who's been there for two years and a day, then you can't use this provision. That seems to be quite restrictive. If it was an average, let's say, of two years, then that would certainly broaden it, but to cause this clause to not come into effect simple because one person in a facility that could contain many, many people had been there for two years and a day or more seems to be fairly narrow. I think that's why Mrs Marland is making that amendment. With the amendment that she's making, this would be quite a bit more useful.

I wonder if I could just ask a question with regard to the definition. I don't know if this is to the minister or the staff, or whom. When it says "the accommodation was occupied solely for the purpose of receiving rehabilitative or therapeutic services agreed upon by the tenant and the landlord," does that mean we consider this on a case-by-case basis? I don't know. There may be facilities whereby some tenants are mostly there for housing and some are mostly there for therapy.

**Mr Harcourt:** Just to clarify, if some tenants are there for rehabilitation and therapy, the two-year limitation applies to any tenants in the building who are there for rehab and therapy. If there are other tenants in the building for other types of care services, the two-year maximum does not apply in this case.

**Mr David Johnson:** Let me see if I can clarify that then: If you have a group of tenants there simply for accommodation and if you have another group of tenants for therapy, if one of the tenants who's there for accommodation has lived beyond the two-year period, then does that void—

**Mr Harcourt:** No, it doesn't void it. You'll only look at those tenants who are there for rehab and therapy.

**Mr David Johnson:** Is that clear in here?

**Hon Ms Gigantes:** Yes, it is.

**Mr Cordiano:** It says so: occupying the accommodation "solely for the purpose of receiving rehabilitative or therapeutic services."

**Mr David Johnson:** All right, I guess it is. So you only look at those who are there for—

**Mr Cordiano:** Rehabilitation.

**Mr David Johnson:** Now, when you say "solely for the purpose of receiving rehabilitative or therapeutic services," my mind is trying to come around that. Is that definable, when you say "solely," because some people may be there for therapy and rehabilitation, but they're also living there.

**Hon Ms Gigantes:** They will be living there. All of them will be living there.

**Mr David Johnson:** Yes, they will all be living there, right.

**Hon Ms Gigantes:** Can we refer you to the fact that this is an agreed-upon program? It's agreed upon between the tenant and landlord that the accommodation is provided in the course of the receipt of services which are either rehabilitative or therapeutic.

**Mr David Johnson:** For example, I doubt Ecuhome would come under this; you wouldn't consider the program at Ecuhome.

**Hon Ms Gigantes:** I would not give you a reading on that.

**Mr David Johnson:** You wouldn't?

**Hon Ms Gigantes:** No.

**Mrs Marland:** She doesn't know.

**Mr David Johnson:** Would anybody else give me a reading on that?

**Hon Ms Gigantes:** What I know is that I should not give you a reading on it.

**Mrs Marland:** Why?

**Hon Ms Gigantes:** Because there are legal questions involved.

**Mr David Johnson:** In that particular instance or in general?

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** What do you mean by yes? Yes in general or yes in that particular instance?

**Hon Ms Gigantes:** Yes in that particular instance.

**Mr David Johnson:** All right. Let's try another one. How about St Michael's Halfway Homes?

**Hon Ms Gigantes:** I'm not familiar with their program. You might describe it.

**Mr David Johnson:** As I understand it, it's for people recovering from alcohol. Is there any other staff here who are familiar with it? I guess not. I would call it a therapeutic program for people recovering from alcohol.

**Mr Harcourt:** I'm not familiar with that particular program, but generally programs which serve recovering alcoholics would qualify under the rehab and therapy clause.

**Mr David Johnson:** It's just the use of the word "solely" in the first line that gives me pause. There may be facilities that consider themselves to have rehab and therapy but they also have accommodation, obviously.

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** As long as they're there—

**Hon Ms Gigantes:** This addresses those people who are resident for the purposes of rehabilitation and therapy. If there are two types of resident, one not in receipt of service and the other in receipt of service, this amendment addresses the situation of the tenant who is in receipt of services.

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**Mr David Johnson:** The Scarborough hospital has the Manse Road group program which serves the severely mentally ill adults with schizophrenia, manic depression, chronic depression, post-traumatic stress. Would that be considered therapy, a program like that?

**Hon Ms Gigantes:** You haven't described the program and I'm not a judge of what is a therapy program. If there is an agreement, you'll note in the amendment the section in fact which Ms Marland wishes to remove—

*Interjection.*

**Hon Ms Gigantes:** I'm sorry. That is not the section she wishes to remove.

**Mr David Johnson:** No, it's before that.

**Hon Ms Gigantes:** If there is an agreement between

the tenant and the landlord that the purpose of the person's placement in a living accommodation is to receive therapy or rehabilitation services, then this clause applies.

**Mr David Johnson:** That will be the criterion then. As long as there is an agreement, then the ministry won't cast its own opinion on this as long as the tenant—

**Hon Ms Gigantes:** And that agreement governs a program in which no person resident in the accommodation is resident there longer than two years.

**Mr David Johnson:** Yes, but provided the two-year restriction is satisfied and the tenant and the operator agree that there is a "therapy" or "rehabilitative" program, then the ministry staff from whatever ministry will not interject into that to say: "In our view, that really isn't a rehabilitative or therapy program. It's just a little bit of a therapy program but it's not enough for us to exempt you"—"exempt" is the wrong word, but for this clause to click in.

**Hon Ms Gigantes:** That's right.

**Mr David Johnson:** I guess time will tell.

**Mr Cordiano:** My tendency is to support this amendment because it goes beyond the 18-month provision dealing with circumstances where you have mixed types of residence, obviously. To that extent, I think that our initial concern was that these kinds of situations be covered off.

Now, of course, extending it to 24 months gives a little more flexibility than the 18-month period, so I'm not opposed to that. However, having said that, where there are agreements between a resident and a landlord I think you will find that the amendments that follow that I am suggesting under this section will add to the kinds of protection that I think should be necessary when there is an agreement in place between a tenant and a landlord. I won't speak about those just yet, but they cover a number of areas that I think are central, if there are agreements between landlords and tenants, that take them outside the protections of the Landlord and Tenant Act.

So I hope, Minister, you will consider some of those amendments as being rather useful, since you've introduced this idea of a tenancy agreement.

**The Chair:** Mr Mammoliti.

**Hon Ms Gigantes:** May I speak to this—

**The Chair:** Oh, you wish to respond to Mr Cordiano?

**Hon Ms Gigantes:** No, I was going to speak to the amendment. I was wondering if you could put me on the list.

**The Chair:** I'll put you on the list.

**Mr Mammoliti:** Perhaps it might be wise to let the minister respond first because she may be answering a question that I might have.

**Hon Ms Gigantes:** It might help if you asked your question. Then I might try to answer it.

**Mr Mammoliti:** I wanted to know the technical difference, if you will just bear with me for a second, between the amendment Mr Cordiano introduced yesterday, the 18-month provision, and this particular one. Is there a difference?

**Hon Ms Gigantes:** Yes.

**Mr Mammoliti:** There is. Can we find out what that difference is?

**Hon Ms Gigantes:** What this amendment addresses is the situation where the Landlord and Tenant Act applies but there are extra grounds for eviction. What Mr Cordiano was proposing yesterday was an amendment which removed coverage of the Landlord and Tenant Act.

**Mr Cordiano:** For 18 months.

**Hon Ms Gigantes:** So they are two different approaches to two different objectives. The objective in this one is to allow a program to clear places for people once the term of the program is complete.

**Mr Mammoliti:** Is there a need for Mr Cordiano's amendment, is the question, and which would supersede which?

**Mr Cordiano:** It just adds to it.

**Mr Mammoliti:** It just adds to it? There's no weight, one over the other?

**Hon Ms Gigantes:** No. There is no direct connection. What I think we could say is achieved in each is relief of the operator. The relief that's contemplated in Mr Cordiano's amendment is one which removes the Landlord and Tenant Act completely for a defined period. What we are proposing instead is a relief which allows the operator of the program to say to a tenant, when that has been agreed upon in the first instance: "The purpose of your tenancy, which was to participate in this program, has now come to an end. It has been achieved in the length of time."

**Mr Mammoliti:** The final question then would be, this would replace the 18 months? It's an addition to it; it's not a replacement.

**Hon Ms Gigantes:** It provides relief for the operator to know that the operator can ensure that there will be a continuing flow of residents who will be receiving that therapy or rehab program.

**Mrs Marland:** I have a question of the minister before I make another comment. Minister, will you be taking this bill into committee of the whole House to reverse the Liberal motion for 18 months that was passed?

**Hon Ms Gigantes:** We will discuss that with our caucus.

**Mrs Marland:** That's what I thought. That's why this whole exercise of clause-by-clause in committee is a waste of time.

**Hon Ms Gigantes:** No. That's not why.

**Mrs Marland:** In fairness, I think the reason we now have more evidence than ever that this part of Bill 120, where you are dealing with people with special needs who are in treatment—this amendment of the government's is dealing with people who are in treatment.

The very fact that no one in this room, and there are at least five members of the minister's staff in this room, can answer Mr Johnson's question points out the fact that this kind of motion that refers to people who are in treatment shouldn't even be in a Housing bill. It should be a bill from the Ministry of Health or Comsoc, which-



ever is the funding agency. If it's mental health, it obviously comes from the Ministry of Health, and some of the other programs, as we've heard, were funded by Community and Social Services.

**The Chair:** Perhaps you could be more precise to the amendment you're proposing.

**Mrs Marland:** The amendment, to be precise, is dealing with the needs of people in special treatment. Mr Johnson asked the minister some questions, would this apply to this program or that program, and the minister isn't familiar with those programs.

The reason she isn't familiar with those programs is that she's the Minister of Housing. She's not the Minister of Health and she's not the Minister of Community and Social Services, who have identified a need for those programs, in fact fund them, and hand over the responsibility to the service providers, who with the government money provide the service. In turn, the service providers come before this committee and say, "We can't work under the Landlord and Tenant Act and we can't work with a control over the time of treatment."

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The Massey Centre has told us, as have some other organizations, that they can't be tied even to two years. That's why my amendment is important to these service providers that the Ministry of Health and the Ministry of Community and Social services fund.

If there isn't anybody in this room from the Minister of Housing's staff who can answer Mr Johnson's questions, it just points out once again how ludicrous it is for any reference to these programs to be before this committee under the Landlord and Tenant Act.

**Mr Grandmaître:** That's the problem with omnibus bills.

**Mrs Marland:** As my friend Mr Grandmaître says, that is the problem with omnibus bills. But at least some omnibus bills, sometimes you can rationalize a relation of one item to another, but when you can't get answers from the minister who is present, who is presiding over her bill, it proves that this section shouldn't be in her bill at all. And of course, that's what we've been saying all along.

So we've got a Minister of Housing arbitrarily making a decision through her bill that affects two other ministries that fund programs that are needed for vulnerable people who are in special treatment in this province today. I think it's a barbaric approach and I think it's insensitive to the service providers to take the control and the management of the programs away from them. If you don't like what they're doing, take the money away. You're probably doing a pretty good job of that as well, actually.

**Hon Ms Gigantes:** I will speak to the amendment to this proposed amendment. I do not support Ms Marland's amendment. The effect of her amendment would be to widen the application of the use of the special eviction process that is being proposed within this amendment and it would mean that we would not be able to make the kinds of distinctions which we believe are important about when that eviction power might be used, to what

purposes it might be used and whether it might be used in a way that would not benefit the person involved in the program.

I should point out to Ms Marland that there's nothing arbitrary about the Ministry of Housing's interest or indeed responsibility in this matter. It was the decision of the government—it may not be to her liking—once we had received, for example, the Lightman report, that it should be the Ministry of Housing which took the responsibility for making amendments, securing the tenancy of people who had not had rights which were available to other tenants in this province. Those rights address concerns of people living in apartments in houses, those rights address concerns of people living in unregulated care homes, and it was very much a cooperative effort among ministries that produced the recommendations which are before the committee.

Further, on this particular amendment, I can personally attest to the cooperation among the ministry representatives who dealt with the concerns that had been raised by operators and concerns that in fact had existed in the drafting of the legislation in the first place. We feel that the proposal of the amendment is a reasonable way of providing that extra eviction power for program operators and we feel that it is important to build in the design of the application of that eviction power that you see before you in the main clause, which Ms Marland's amendment would remove.

**Mr White:** I would like to state very clearly that I think this is a very, very important issue. In my community, the Ministry of Housing, the Ministry of Health and the Ministry of Community and Social Services are all involved in housing in various and sundry different ways.

The Ministry of Housing, frankly, has over the last several years become much more involved than it ever has been, because my community houses the Whitby psychiatric facility and a large number of people who are former residents of that facility now need alternative accommodations within our community. What's important is that they not be denied their basic rights, that there be a mediation of what their rights to accommodation are and what their rights in terms of treatment and services are.

The clause that the minister is suggesting makes a great deal of sense for those reasons. Because someone is a patient or an ex-patient, should they have less rights than you or I? There is certainly a curtailment here, but how dramatic should that curtailment be?

I think the balance that the minister speaks of is an excellent one. It is one that allows people those rights that are basically the same as everyone else's. It only states very clearly that there are some rehabilitative programs and that for the most part—and my own experience in that area is that I don't know of any residential rehabilitation program that would require more than two years of active treatment. I think this is an overgenerous time frame and certainly would allow for almost any ongoing treatment programs that happen outside of a hospital setting.

I think for those reasons it makes a great deal of sense to argue that the Minister of Housing is not the Minister

of Health or the Minister of Community and Social Services. There is some legitimacy to that. However, the Ministry of Housing is much more involved with a range of different social programs than it has ever been in the past and has done so actively and well in my community. I can certainly attest that this minister has been very active in ensuring that her ministry is responsive to the needs of our communities, and mine in particular.

**Mr Cordiano:** I note that the time is quickly approaching 12, but let me just say that the real difficulty with this amendment, at the exclusion of any other consideration that was included in our amendment having extended the section that deals with the further exemption from six months to 18 months, is that it's a definitional problem and we can foresee difficulties around having to define whether in fact an agreement between a resident and an operator is therapeutic or rehabilitative. Notwithstanding that there is an agreement, it becomes interpretational whether that agreement is therapeutic or rehabilitative.

It's precisely because of that concern that we felt that the element of time should be the foremost consideration, because it was measurable and the true test would be the element of time, 18 months being what we heard from deputants as the average, the history that has been experienced by those, I might add, very good providers of care who were conscientious and quite serious about what they were doing.

We took those matters with a great deal of seriousness and we brought forward the amendment dealing with the 18-month provision, but it's precisely because no one has been able to define in a consistent, logical fashion what "rehabilitative and therapeutic" might mean in legislative fashion, the difficulties and complexities around doing that, that we felt the element of time should be the first and foremost consideration.

**The Chair:** Further questions or comments?

**Mr Grandmaître:** May I be on the list for this afternoon?

**The Chair:** You have further questions and comments?

**Mr Grandmaître:** No, for this afternoon, I want to be on the list.

**The Chair:** He wants to be on the list.

**Hon Ms Gigantes:** Is that to the amendment or the subamendment?

**Mr Grandmaître:** To the sub.

**The Chair:** Just before the committee breaks for lunch, I have an unrelated piece of business that I would like to deal with if the committee's so inclined. It is to pay the expenses of a Mr Barry Schmidl who attended the committee from Sudbury. The committee had agreed that it would pay the expenses of people who had to come to Toronto from other parts of the province that the committee was unavailable to meet with, and I would just ask that we have a motion from someone to pay Mr Schmidl in the amount of \$295.09.

**Mr Grandmaître:** Is he the only person who made a claim?

**The Chair:** Yes. This is the only claim we have, and I think Mr Schmidl has waited some time for his reimbursement and that we could deal with it. If someone would just make the motion. Mr Winninger. All in favour? Agreed.

The committee will reconvene at 2 o'clock sharp.

*The committee recessed from 1202 to 1409.*

**The Chair:** The purpose of the committee meeting this afternoon is to reflect on the clause-by-clause consideration of Bill 120. We were debating, as members would know, Mrs Marland's amendment to the amendment, government amendment to section 2.1. When we finished I had Mr Grandmaître on the list.

**Mr Grandmaître:** I'd like to address my comments and possibly questions to the minister. Madam Minister, this morning you were asked by the opposition why the Ministry of Housing was the lead ministry in this case. I think in your response to Ms Marland you did say that you were the lead ministry for the simple reason that you wanted to protect the rights and also to regulate not only housing proper but even the retirement homes and homes providing care.

My question to you is, if that's the real reason why you are the lead ministry in this case—and maybe I should be asking the Ministry of Health or Comsoc—why didn't those ministries address those problems where problems were identified?

I'm going to use as an example, for instance, the Rideau Place people who appeared before this committee saying: "We are not being subsidized by the Ministry of Health, we are not being subsidized by Comsoc, we're not being subsidized in any way, shape or form. Why would you want to regulate our home, for the simple reason that we're paying our way and we're receiving good services and we would like to retain or maintain these services as they are. We don't need the government to regulate us more than we are regulated now."

I find this a little strange. Why didn't you or the Ministry of Health or Comsoc attack the people who were or who you thought were breaking the law and/or didn't have any protection whatsoever? Why didn't you regulate these people, bring out some norms and say, "If you don't follow these norms, then you'll have to respond to us, to the Ministry of Health or Comsoc or Housing"? But in Bill 120—

**The Chair:** And you're going to address this to Mrs Marland's amendment.

**Mr Grandmaître:** Yes, it's all part of Ms Marland's question this morning to the minister and the minister's answer.

**Mr Gary Wilson:** Is that the way you see it, Mr Chair?

**The Chair:** I'm sure the member always ties it together.

**Mrs Marland:** That's the way I see it, and that's all that matters.

**Mr Gary Wilson:** Mike isn't as genial as you are. She said that she's the Chair here, Mike.

**Mr Grandmaître:** Well, I'm glad we've got another



Chair in place. Madam Minister, you've heard my questions. How come you didn't go after these operators who were breaking the law or you weren't satisfied with the maintenance of these services? How come you're taking the lead for these ministries? You're responding for the Ministry of Health and Comsoc. How come these people are not here to answer those questions?

We've heard from the Ministry of Health and also Comsoc, but now you're taking the rap for them, because you have to answer for the Ministry of Health. I know you've consulted with them, but I'm finding it very, very strange that you have to take that responsibility when really we're trying to regulate homes that are not being regulated and are not providing the services there they were designed to provide. How was it decided that your ministry would be the lead ministry in this with Bill 120?

**Hon Ms Gigantes:** The very simple answer to that question is that Dr Lightman, in his study of unregulated care homes across Ontario, which are many in number and spread over a wide range of levels-of-service costs and so on, but in his study he determines that one of the key things that would improve the situation for residents was to have housing measures in place, coverage by the Landlord and Tenant Act, coverage by rent control. These were his recommendations, and I certainly understand why he made those recommendations.

You talk about a case-by-case kind of regulation that you feel is more appropriate, you suggest it's more appropriate, but in fact much of the need for regulation can be addressed if we have protection for residents that enables them to use their own initiative to assure that their situation is a good one.

For example, you raised the issue of Rideau Place. We all know that in this world there are landlords who are wonderful and who will never have anybody call a rent control office or the Ministry of the Attorney General and say: "I've got a problem with this landlord. What are my rights?" They will carry on their businesses and maybe never, in all their years of experience, have anybody use the legislation which applies to the business they're operating, the Landlord and Tenant Act. They may never have anybody call a rent control office. Certainly, I've had landlords like that who have just been absolutely wonderful, and I've had landlords who made me call and say: "What are my rights? How long do I have to wait for the furnace to get turned on?"

We don't write legislation for each and every case. You say, "Enforce the law." The law doesn't cover unregulated care homes now, so what law is there to enforce? What you're suggesting instead is that where there are problems, ministries regulate on a case-by-case basis. But according to what standard? What are the rights of people who live in a care home?

At the upper end of the market people may be exceedingly content. Certainly people at Rideau Place have indicated to you and to me that they are very happy with their situation, that they feel they will never have cause to ask to have their rights in the Landlord and Tenant Act applied in their situation, that they feel they will never have any need to go to a rent control office and ask for assistance about an increase in the cost of their accommo-

dation. We are not proposing—which I believe that they did not understand, at least initially—to regulate the costs of other services.

When you have a situation where in case after case, and this is what Dr Lightman studied, there are problems—and there can be problems even in the high end of the market in terms of care homes. People have complained about the size of accommodation cost increases. That may not be the case now; it depends on the market.

But legislation won't be used by people if they don't need to use it, number one. Number two, rather than try and regulate on a case-by-case basis on whatever standard you want to set, doesn't it make sense to address those problems which can be addressed, as it were, generically, that have to do with people's rights to maintain their tenancy, to expect only reasonable increases in the cost of accommodation and so on?

It makes sense to me. That's why we do laws of a general nature, so that you don't have to run after every particular case and try to figure out the merits of that case; everybody involved knows what the règles du jeu sont and people then operate within a framework which is understood on all sides and generally judged to be fair. I hope that helps.

1420

**Mr Grandmaître:** It does, Madam Minister, but you did use words that I didn't use. You used, three or four times, "on a case by case." I didn't ask you to deal with these homes case by case. I was simply advising you or telling you something that you already know, that we do have some good landlords, good care homes—

**Hon Ms Gigantes:** Absolutely.

**Mr Grandmaître:** —good care providers, and you said let's use a generic form of regulation to regulate all of these people. I'm saying, why regulate good operators that may never have to use Bill 120? So I'm asking you, why didn't you pick and choose these bad operators?

**Hon Ms Gigantes:** On a case-by-case basis?

**Mr Grandmaître:** No, because you seem to think—

**Hon Ms Gigantes:** How else would you do it then?

**Mr Grandmaître:** —that there are a whole lot more—

**The Chair:** Are we going to tie this to Mrs Marland's amendment 2.1?

**Mr Grandmaître:** —bad operators than good operators, and I'm saying there are as many good operators as bad operators.

**Hon Ms Gigantes:** There are more good operators than bad operators.

**Mr Grandmaître:** Why didn't you go after the poor operators then?

**Hon Ms Gigantes:** We're not going after anyone. We're setting certain standards. Those standards actually do apply to rental accommodation across this province, except in the case of unregulated care homes and in certain exemptions that we have made in this legislation in hospitals and so on, and in situations where people haven't been able to exercise their rights in apartments and houses.

**Mr Grandmaître:** Yes, but people have told us—

**The Chair:** Mr Grandmaître, this is a very interesting debate, but it—

**Mr Grandmaître:** One last question, Mr Chair, I promise you.

**The Chair:** —doesn't relate particularly to Mrs Marland's—

**Mr Grandmaître:** One last question and that's it. You've heard people saying we cannot operate under Bill 120. Ecuhome told us this; Massey Centre told us that. What will your bill do for these people when they say they cannot operate under Bill 120? Have you got a contingency plan for these people?

**Hon Ms Gigantes:** I wouldn't call it a contingency plan. We seriously do have a plan to work with operators who feel they are going to have troubles with the legislation being provided through Bill 120 and assist them so that they feel they can operate. We believe we can do that. We believe we can do it in all aspects about which they've raised concerns. We've given serious thought to each of the items they have raised with us and we believe, in a very positive sense, that we can provide assistance to them that will make their operations quite compatible with Bill 120.

**The Chair:** Further questions, comments, or even amendments, to Mrs Marland's amendment to the government motion 2.1. Further questions or comments?

Shall Mrs Marland's amendment to Mr Wilson's amendment to section 2.1 carry? All in favour? Opposed? The motion is lost.

We are now dealing with Mr Wilson's amendment to section 2.1. Questions, comments or further amendments.

Shall Mr Wilson's amendment carry? Carried.

Section 2.1: I have a Liberal motion.

**Mr Cordiano:** I move that the bill be amended by adding the following section:

"2.1 Section 81 of the act is amended by adding the following subsection:

"Agreement required

"(3) There shall be a written tenancy agreement relating to the tenancy of every tenant in residential premises for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy, and the agreement must set out what has been agreed to in respect of care services and meals and the charges for the services and meals."

**The Chair:** Mr Cordiano, this amendment is out of order, as it is dealing with a section that is not open in this bill.

**Mr Cordiano:** Could I have unanimous consent to entertain this amendment?

**The Chair:** Mr Cordiano has asked for unanimous consent. Agreed? Agreed.

**Mrs Marland:** Boy, we should work all weekend. Things are improving.

**Mr Gary Wilson:** We may.

**Mr Cordiano:** Mr Chairman, if I may, this amendment is necessary to deal with the fact that in a care

home there are a number of circumstances whereby it is essential for the landlord to enter the premises of a unit, a tenant's premises, to provide either emergency services or other types of services without having the provisions of the Landlord and Tenant Act preclude that from happening, in as flexible a way as possible.

The Landlord and Tenant Act, I think, precludes this from occurring without written notice. For example, it requires that there be a 24-hour written notice for a landlord to enter the premises of the unit occupied by a resident in the case of emergency services or in the case of care that needs to be provided.

Actually, in Bill 120 there is no contemplation of those kinds of emergency services that need to be provided where a 24-hour written notice simply would not do, where someone needs the kind of emergency care services that often take place in a care facility. As we heard repeatedly from deputations, there are certainly a number of instances where this kind of care is essential.

**Hon Ms Gigantes:** On a point of order, Mr Chairman: Might I inquire which motion is being addressed?

**The Chair:** Section 2.1. Does anyone else have a problem with which motion is being addressed?

**Hon Ms Gigantes:** I got confused, because what was being said seemed more pertinent to further amendments.

**The Chair:** You may continue, Mr Cordiano.

**Mr Cordiano:** There are other amendments that deal with other requirements. There may be wrinkles to each of these, but I think all of these deal with the matter that is not dealt with in Bill 120; that is, there are circumstances which necessitate that a landlord must deal with tenants, and I guess with respect to this particular subsection, the agreement here dealing with this particular amendment deals with care services, meals and charges, and requiring that these be set out.

If I may, to the minister's remarks, I was attempting to address the purpose of a tenancy agreement, which would not only spell this out, but further amendments also deal with the authority that a landlord may enter the premises as part of a tenancy agreement. That is spelled out further in subsequent amendments, so I suppose the minister is somewhat correct in wondering where I was leading with this. But my explanation was attempting to deal with all of these amendments which in effect provide for a tenancy agreement to deal with a number of matters that are not contemplated in Bill 120, or at least are made virtually impossible to be dealt with by Bill 120.

1430

All of these sections that come under section 2 and the subsequent amendments deal with a number of these items. This particular amendment under this section of the act deals with what must be set out in terms of care services and meals, and that is certainly something that I think can be supported by all members. The fact that there would be a tenancy agreement to spell out what charges for these meals and care services have been contracted with the landlord I think is going to make the situation much clearer for people to deal with.

**Hon Ms Gigantes:** I have some concern not about the intent but the wording. Perhaps I could ask a question of



**Mr Cordiano:** If we removed the phrase "whether or not receiving the services is the primary purpose of the occupancy," would that in any serious way change what you're achieving here?

**Mr Cordiano:** That is a legitimate question. I think that was inserted for the situations where there are a limited number of care services provided. I think in that case it was of some concern that these people not be treated differently in a care facility. Where there was minimal care, such as someone having someone bathe them or something like that—I can't contemplate what it might be, but it was a limited level of care that was being provided—I felt that it was still important to include those residents to ensure that they also would be provided with these tenancy agreements in those types of situations.

**Hon Ms Gigantes:** I asked the question because, as you'll recollect, in the motion we just dealt with we had arranged wording or proposed wording, which was approved by the committee, that dealt with those people who are involved in a therapeutic or rehabilitative program, and we had also contemplated that there would be people outside that program in the accommodation.

My concern is that the phrase "whether or not receiving the services is the primary purpose of the occupancy" suggests that everybody in the building will have to have a tenancy agreement for the purposes of receiving care services, whether or not they are receiving care services or whether the receipt of care services is the primary purpose of the occupant, which starts to get terribly confusing.

It does seem to me that your motion, without that phrase, accomplishes what it is you say you want to achieve. If that phrase were removed, I would have no difficulty with what you're proposing because it would in fact simply be an underlining in a legislative clause of what we already have made provision for in the bill, which is that each resident of a care home will receive a full information package from the operator concerning what services are provided, what the costs of those services are and so on. The normal arrangement is for an agreement about the provision of services to be entered into between the resident and the operator. That's normal.

This would simply spell it out. I don't have any concerns about how many times we spell it out in the bill. It's perfectly acceptable to me, except when you're saying that you're going to require such an agreement of people even if the prime purpose of their occupancy of the building is not the receipt of services.

**Mr Cordiano:** I think it speaks to the care homes where there is, as I say, a limited—this was not contemplated to capture the rehabilitative or therapeutic centres.

**Hon Ms Gigantes:** I understand.

**Mr Cordiano:** This was designed for rest and retirement homes, those kinds of facilities. Therefore, it was our view that where they're providing care services, then an agreement was necessary between the occupant and the landlord, the operator of the home, because, as the case may be, there are a number of provisions within the care facility which, if not spelled out, would take it

outside the Landlord and Tenant Act. You're not including care services in the Landlord and Tenant Act. That's not what the intent was, I believe.

**Hon Ms Gigantes:** In the Rent Control Act.

**Mr Cordiano:** Pardon me, in the Rent Control Act. That's right. I thought it was essential that these care services and charges for these things would be spelled out very clearly.

Additionally, as the other amendments deal with it, it is essential to have a tenancy agreement as well for the operator of a home to be able to go into the premises of a unit that is occupied by a resident to continue to provide care on an ongoing basis. The Landlord and Tenant Act precludes this from happening, unless there is written notice of 24 hours in advance.

We felt that was not acceptable, because there are many homes where care needs to be provided on an ongoing basis and where residents need to be checked on regularly within that 24-hour period, without having to resort to written notice each and every time this happens. It's a routine check on the residents or the occupants by the care providers. Therefore, it's essential to have this tenancy agreement to overcome that difficulty in the Landlord and Tenant Act.

Some would say that we shouldn't even bother with the tenancy agreement. Obviously this act contemplates that and more by virtue of the Landlord and Tenant Act covering that. We felt that there was some middle ground and that by having a tenancy agreement, the resident would be covered, because in effect they would be made aware of these circumstances by virtue of their agreement with the operator. It covers off those kinds of situations rather than resorting to the Landlord and Tenant Act, which is a very rigid, unyielding kind of circumstance to deal with. The regime of the Landlord and Tenant Act is much more difficult to deal with for operators of these homes.

**Hon Ms Gigantes:** I'm going to ask Scott—I've forgotten your last name.

**Mr Harcourt:** Harcourt.

**Hon Ms Gigantes:** I'm so sorry. How can I forget the name Harcourt? I'm going to ask Scott to make a comment about the Landlord and Tenant Act as it applies to the entry of premises, of rental units. But first I'm going to ask you again, if I were to suggest the removal of whether or not receiving the services is the primary purpose of the occupancy, leaving your main objective, "There shall be a written tenancy agreement relating to the tenancy of every tenant in the residential premises for the purpose of receiving care services...and the agreement must set out," and so on, does that not accomplish what you're after?

**Mr Cordiano:** I'm not really sure, because, as I say—

**Hon Ms Gigantes:** I'm concerned that unless we take out that middle clause, what we're doing is opening up a field where people will be talking about what's the primary purpose of the occupancy for no good purpose—for no useful purpose, without making a moralistic judgement on it.

**Mr Cordiano:** Without going into that area, I just

think that if, by taking out this clause, you then preclude—and this is my concern—the occupant of a care facility from being included where there is limited care, where in fact these residents are there and are relatively healthy, shall we say, and there are very limited needs that are required by the occupants, therefore it becomes a question of how you define this, whether it's great care, where there is a therapeutic or rehabilitative requirement. By removing that sentence, I'm not so certain that you can then categorize these occupants or these residents in a care facility as being treated in the same fashion.

1440

What I do not want to happen is, in a facility which houses tenants who receive a great level of care within that facility's mandate, a requirement to have a tenancy agreement or having the option to have a tenancy agreement, and those who receive limited care or virtually no care—other than the regular goings-on in the facility, that is, meals and bathing etc or what else is required of a limited nature—not being given the opportunity to sign a tenancy agreement by virtue of having removed that section of that amendment.

**Hon Ms Gigantes:** Can I ask this question? Is your concern that the tenancy agreement spell out the services provided or that it spell out entry provisions into a unit?

**Mr Cordiano:** No. That's dealt with in a subsequent amendment, and we'll get into that in another amendment.

**Hon Ms Gigantes:** Then could I suggest to you again that you've already said "the purpose of receiving care services," and the agreement sets out what is agreed to in respect of care services and meals and charges for the services and meals. So I think you're covered in your major objective there. The concern I have is that you're requiring everybody in the building, whether in receipt of anything besides accommodation, to sign a tenancy agreement. We don't do that.

If I rent a unit in a care home but I don't need any services and there are people who do that, why should I have to enter a tenancy agreement? About what? You say that a tenancy agreement is about the services and meals. That's fine.

**Mr Cordiano:** I will submit to this, that in this particular amendment it may not be necessary, but in subsequent amendments there is the requirement where there are no care services provided for additional measures. The 24-hour rule, which is something I've elaborated on already—

**Hon Ms Gigantes:** So it's the power of entry you're talking about?

**Mr Cordiano:** It's the power of entry in that particular case.

**Hon Ms Gigantes:** Okay. That's different.

**Mr Cordiano:** And in another case, there is a requirement for subletting, which I think has to be agreed to by the landlord, in my opinion. You may not share that opinion, but this particular wording would enable the landlord to make that determination.

**Hon Ms Gigantes:** Could you speak to the question of entry, Scott?

**Mr Harcourt:** The minister has asked me to comment on access provisions under the Landlord and Tenant Act. Currently a landlord may enter a tenant's premises if given 24 hours' written notice, if there is an emergency or if consent is given at the time of entry. There is one additional provision and that is if there is in a tenancy agreement provision that the landlord is required to clean the premises, the landlord may enter the premises for that purpose. All of those provisions are contained in section 91 of the Landlord and Tenant Act.

**Mr Cordiano:** Right.

**Hon Ms Gigantes:** What would constitute an emergency?

**Mr Harcourt:** I suspect if the tenant was frail or elderly and was not in good health and you couldn't get a response, that might be deemed to be an emergency. If the tenant was not responding for a length of time when trying to enter the premises, that might be deemed an emergency, those types of situations.

**Mr Cordiano:** Right, in so far as that is essential, in our opinion, so as not to leave anyone that is vulnerable in a particular situation where the care providers would not visit that person for at least a period of time which would be I think beyond what is acceptable in an emergency situation. That is the reason for that particular aspect of this amendment, to deal with that circumstance.

**Hon Ms Gigantes:** No, if I could, Mr Chair, what you're dealing with in the phrase "whether or not receiving the services is the primary purpose of the occupancy" is a question of somehow ascertaining whether the primary purpose is accommodation and service, ancillary service I think we'd probably call it in this committee, or whether it is primarily for the receipt of services and accommodation is somehow just considered a byproduct or a necessary attending factor.

**Mr Cordiano:** Again, I get back to this notion of having a resident in one facility which provides care on a sliding scale, if you will, or on a continuum. What I do not think is acceptable is to have two types of residents, one who has signed a tenancy agreement contemplating the fact—you could do this if it were just for care services. I think you're right. I think in the case of those who would need care services, then you would additionally ask for a tenancy agreement.

But I think it's appropriate to suggest that in the case where there are emergency services required in those types of facilities—I think your argument is, "Why should that be any different than anywhere else?" We're usually talking about the elderly. We're talking about perhaps frail elderly who are quite capable of looking after themselves, by and large, but need to have someone look in on them every once in a while.

This was what we heard repeatedly from care providers, from home operators, that they felt this would be difficult at the least to deal with circumstances like that where, for example, as I think one of the deputants said, someone is a smoker and is an elderly person and has a tendency to fall asleep while smoking, a very dangerous situation.

Home operators know this to be the case, know that



person puts himself or herself in a dangerous situation and will then I suppose be visited by some person who is providing that care in the particular area of the facility. They'll have a watch, I suppose, or someone who comes in and ensures that this person is not putting himself in a dangerous situation, and the rest of the tenants in the building.

Those are the kinds of situations that are contemplated by the home operators and I think not dealt with easily by the Landlord and Tenant Act. I think this would be precluded if all we had was the Landlord and Tenant Act.

Getting back to the point where care is not the primary purpose, you have someone who is a smoker, you have someone who perhaps needs to be looked in on by someone who's providing care every once in a while—

**Hon Ms Gigantes:** Why do you care whether it's the primary purpose or not? This is what I have real difficulty understanding.

**Mr Cordiano:** Perhaps that change in the words "primary purpose" might ameliorate—

**Hon Ms Gigantes:** If we took out the phrase, then I see nothing inconsistent with the purpose of the bill and what you're trying to achieve. But when you start talking about, is this primary, is it not primary, whether or not receiving, when receiving, why receiving, who cares? What you want is an agreement around the care services and the meals and the charges.

**Mr Cordiano:** Not necessarily. What we want is for every resident in that type of facility, a care facility, which may or may not provide care at a high level but may provide some minimal amount of care—you see, if that phrase is not in there, then that person who really has no need of any kind of care provision, I think if we take that out, perhaps what might end up happening is that everyone in effect would sign a tenancy agreement anyway, because you're entering into one of these facilities.

There would be some level of care that would be needed to be provided because that would simply be the way in which people would see this. I think they'll just make tenancy agreements a standard or something that is entered into in every single facility, and therefore, that level of care, again a definitional problem, would no longer be a problem. Quite frankly, if you want to take it out, I don't think it's going to be a problem.

**Hon Ms Gigantes:** I'm quite prepared to support it if we take that phrase out.

**Mr Cordiano:** Okay. Let's remove it, and I think that might accomplish what we want to accomplish.

1450

**The Chair:** Mr Cordiano, do you wish to amend your amendment?

**Hon Ms Gigantes:** Can I take one more moment to consult? Fresh news from the front. Can you explain what you were just saying, Scott?

**Mr Harcourt:** Maybe I'll get legal to comment here. I think what the amendment, as it's worded, presently does is it incorporates the definition of "care home" into it, which is not defined in the Landlord and Tenant Act.

That's why the reference is not to "care home." I'll get legal to comment on the result if the phrase "for the primary purpose of receiving care" is excluded.

**Mr Lyle:** Perhaps I could elaborate.

**Mr Cordiano:** Yes. That would be helpful.

**The Chair:** Could you just introduce yourself.

**Mr Lyle:** I'm sorry. I thought I was already introduced. My name is Michael Lyle. I'm a legal counsel with the Ministry of Housing.

There is currently an exclusionary definition in the "residential premises" definition in the Landlord and Tenant Act. It says that "residential premises" does not include "accommodation occupied by a person for penal, correctional, rehabilitative or therapeutic purposes or for the purpose of receiving care."

There was an equivalent, in fact an identical definition in the former Residential Rent Regulation Act. That definition in the Residential Rent Regulation Act has been interpreted by the courts to mean primarily for the purpose of receiving care. In other words, you don't get the exemption unless you're primarily for the purpose of receiving care.

I assume the reason why Mr Cordiano's motion has been worded the way it has is to ensure that we don't get into the issue of whether or not the—

**Mr Cordiano:** The primary purpose is care.

**Mr Lyle:** Exactly.

**Mr Cordiano:** That's what I thought I was addressing.

**Mr Lyle:** I think it actually achieves the minister's purpose. We can leave it as it is.

**Hon Ms Gigantes:** I don't believe you. Michael, for a moment, if I might, "There shall be a written tenancy agreement relating to the tenancy of every tenant in residential premises for the purpose of receiving care services." The agreement is about the receipt of care services. We're not into an exemption here, we're not into anything that has to be tested by the court, until we introduce this phrase, which I find difficult to stomach, about primary purpose. As soon as you say "primary purpose," you're into what's secondary, what's ancillary, all the discussion that we had yesterday.

**Mr Lyle:** The words in the proposed motion say, "of every tenant in residential premises for the purpose of receiving care services." Given the court decision, I think those words "for the purpose of receiving care services" would be interpreted as being primarily for the purpose of receiving care services.

**Hon Ms Gigantes:** No, no, no. I read this to mean that the agreement is for the purpose of receiving care services. I think what you're doing is introducing a complexity here that isn't required. There is no test that needs to be made here. The agreement is about care services. It's for the purpose of receiving care services. That's what Mr Cordiano has told us; that's what I believe.

**Mr Cordiano:** The intent here is to allow for those care services to be provided on a continual basis. Obviously spelling that out in a tenancy agreement would

make it clear. If the courts have interpreted otherwise—

**Hon Ms Gigantes:** The courts were interpreting what constituted an exemption. They were setting up a test.

**Mr Cordiano:** That's right.

**Hon Ms Gigantes:** We're not setting any test here. We're just saying where care services are being received, there should be a tenancy agreement about it.

**Mr Cordiano:** Quite frankly, I think if you want to remove that clause, that's fine. Because of that interpretation, it was necessary to have that clause in there so that it would not be considered a total exemption.

**Mr Lyle:** It's definitely not an exemption.

**Hon Ms Gigantes:** It's not a test.

**Mr Lyle:** It's merely a question of to what tenancies does this particular provision apply.

**Mr Cordiano:** Yes. So in your opinion, if it were written as it was originally, this would then allow for all tenants to be covered in the same way, if they had a tenancy agreement.

**Hon Ms Gigantes:** Not if it's an agreement about services.

**Mr Lyle:** All tenants who are occupying residential premises for the purpose of receiving care services.

**Mr Cordiano:** Right.

**Mr Lyle:** That would not matter then.

**Mr Cordiano:** If they received care services as the primary reason.

**Mr Lyle:** There would be no distinction between those two.

**Mr Cordiano:** There would be no distinction and that's what I've been arguing, that I did not want to set up a regime where there were distinctions between one set of residents and another. I thought it was important not to have that in a facility. If we remove the words, as the minister has suggested, then would it not make it possible to have that kind of distinction?

**Mr Lyle:** I think you'd get an argument.

**Hon Ms Gigantes:** I don't think so. I don't think that's the test.

**Mr Cordiano:** I don't know, Minister, if that was your intent or not.

**Mr Lyle:** I think the minister is probably correct in saying, though, that given the context of this, we'd likely end up with the same result whether those words are in there or whether those words are taken out.

**Mr Cordiano:** That's what I'm saying, more or less, but since you bring up the point—I'm willing to remove the words because I, quite frankly, don't think they have that much of an impact on this particular section. If that's acceptable, we will remove those words. It doesn't really much matter.

**The Chair:** Mr Cordiano, then you wish to—

**Mr Cordiano:** Further amend my amendment.

**The Chair:** By deleting—

**Mr Cordiano:** By deleting that wording, "whether or not receiving the services is the primary purpose of the occupancy."

**The Chair:** What you wish to omit is in the second line, commencing with the word "whether" and going into the third line, ending with the word "occupancy."

**Mr Cordiano:** Yes.

**Hon Ms Gigantes:** And you need to take out the comma.

**The Chair:** Thank you, Minister.

**Hon Ms Gigantes:** You're welcome.

**The Chair:** All in favour of Mr—

**Mrs Marland:** No, no, we've got some more discussion.

**Mr Gary Wilson:** We do?

**The Chair:** It was a good try, Mr Chair.

**Mrs Marland:** A whole hour has gone by and—

**The Chair:** Mrs Marland, you wish to discuss Mr Cordiano's amendment that he just placed?

**Mrs Marland:** Yes.

**The Chair:** Fine.

**Mrs Marland:** Should I mention—or you don't want to mention this?

**Mr David Johnson:** I guess the first point to make here is that if you look in the Rent Control Act there's a definition of "care home." The definition of "care home" would be quite familiar, reading Mr Cordiano's amendment. It states that "care home" means "a residential complex that is occupied or intended to be occupied by persons for the purpose"—now we go right to his amendment, the exact same words—"for the purpose of receiving care services, whether or not receiving the services is the prime purpose of the occupancy."

Maybe my question is to the legal counsel again, who's just occupied his—

**Mrs Marland:** I don't think the minister heard what you said.

**Hon Ms Gigantes:** Oh, yes, I did.

**Mr David Johnson:** Here we have precisely the same definition in the Rent Control Act that this amendment is addressing.

**Mrs Marland:** Which is probably why it was drafted that way in the first place.

**Mr Cordiano:** Well, it was.

**Mr David Johnson:** Which is undoubtedly why—and it seems to stand up here. Why does it stand up here? Have you got the Rent Control Act?

**Mr Lyle:** Yes, I do. It's section 4 of the bill.

**Mr David Johnson:** Section 4, yes, subsection 1.

**Mr Lyle:** It's much more important here, the use of the words "whether or not receiving the services is the primary purpose of the occupancy," because in this situation we essentially have different categories. We have residential premises which will be covered by the Rent Control Act, including all services, and then you have care homes where care services and meals are not subject to the Rent Control Act. So it's important to distinguish between those two classes.

**Mr David Johnson:** It's a little hard to know exactly why we're fussing about a few words here, but here it



makes sense and legally it stands up and there's no problem with interpretation, I gather. The courts have not made any strange rulings with regard to this particular definition in the Rent Control Act.

**Mr Lyle:** This is a proposed definition in the bill, so it hasn't been passed into law as yet.

**Mrs Marland:** What, in the Rent Control Act?

**Mr Lyle:** You're referring to the definition of "care home" in the Rent Control Act?

**Mr David Johnson:** Yes. That's the definition that comes out of this bill, is it?

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**Mr Lyle:** Yes. That's not current.

**Mr David Johnson:** But you don't anticipate any difficulty.

**Mr Lyle:** No. It was drafted to deal with that particular court case I referred to.

**Mr David Johnson:** So I'm a little bit at a loss as to why it comes out of this bill and makes sense here to put that into the Rent Control Act, but it doesn't stand up under this amendment in section 2.1. Isn't there some value in being consistent?

**Mrs Marland:** Where is it in Bill 120?

**Mr Lyle:** It's in subsection 4(1) in Bill 120. I think there is some value in being consistent and I think we are, in the sense that if you look at subsection 1(2) of the bill, which refers to the Landlord and Tenant Act, essentially the same wording is used. However, I think it's most important that these words be used in the Rent Control Act, because different categories of residential premises in the Rent Control Act are being treated in different ways.

**Mr David Johnson:** Does this imply that by the definition, in your interpretation of what the courts have said, somebody assesses how important the care services are and whether the care services are minor in nature or whether they're very prevalent in nature, and if the care service component is minor in nature, then you apply one interpretation and if the care service component is very major then you apply another interpretation?

**Mr Lyle:** What the court decision said was that the exemption that was in existence at the time should be interpreted as saying you exempt in the case where the primary purpose is care. What this provision says is that you will meet the definition of "care home" and will follow the rules related to care homes in the Rent Control Act if you have a situation where the purpose of the accommodation is for the receipt of care services, whether or not it's a primary purpose or a non-primary purpose.

**Mr David Johnson:** All right. Let me ask you about these scenarios. Suppose we have a situation where the care component is there but it's not—I don't know how one defines the primary purpose, but it's a more minor purpose than the primary purpose.

**Mr Lyle:** It's an attempt to ensure that we don't get into that sort of issue.

**Mr David Johnson:** So if this amendment were passed the way it is and the care component was more

minor than primary, presumably then still a tenancy agreement would be required, because this says whether or not it's the primary purpose.

**Mr Lyle:** That's correct.

**Mr David Johnson:** Now, if this clause were deleted with the same circumstance and the care component was more minor than primary, then what? Is a tenancy agreement required or not?

**Mr Lyle:** Then you would get into the argument of whether this particular court decision should be applied to interpret these words in this particular context.

**Mr David Johnson:** So then it does leave it open. I think this is Mr Cordiano's concern, that he wanted all the people to be treated the same, and you're saying there would be some doubt if this clause is removed. If you were receiving care but it was not a whole lot of care but it was some care, then based on that court's interpretation of that other clause, one could argue that you're not receiving enough care such that a written tenancy agreement would be required as a result of this clause.

**Mr Lyle:** Would not be required I think is what you wanted to say.

**Mr David Johnson:** Would not be required, yes.

**Mr Lyle:** That's my concern.

**Mr David Johnson:** So we get into that kind of situation. Wouldn't it be more clear if the "whether or not" was left in and it would cover all cases and you wouldn't have to worry about that court's ruling?

**Mr Cordiano:** Could you repeat what you just said earlier, because it's critical.

**Mr Lyle:** Sorry, I'm not sure what comment you're referring to.

**Mr Cordiano:** The question of this clause creating two sets of residents, one set that is covered and another that is not.

**Mr Lyle:** No, I don't think I said that.

**Mr Cordiano:** Okay, what did you say?

**Mr Lyle:** This is not an exemption provision. This is a question of whether or not a written tenancy agreement would be required and the concern I expressed was that if we were to remove the words "whether or not receiving the services," the possibility is open, given the past case law on what the term "purpose of receiving care services" means, that could be interpreted as meaning only where the purpose of receiving care services is a primary purpose.

**Mr Cordiano:** Right, but where it's not, as is the case in many facilities where the primary purpose of the residency was not to receive care, because the courts would not interpret it that way because there's a limited amount of care being provided, that would not apply, that a tenancy agreement would not be necessary.

**Mr Lyle:** That's my concern, that it might be interpreted in that fashion.

**Mr Cordiano:** You see, that's the crux of the issue here.

**Hon Ms Gigantes:** Mr Chair, if I might, it may be that the words that are really scrambling us all around

here are "for the purpose." As I read this clause, "There shall be a written tenancy agreement to receive care services," if we didn't say "for the purpose," then we wouldn't get into primary purpose, secondary purpose, whatever colour of purpose. We don't need that "for the purpose." There should be "a written tenancy agreement for the receipt of care services." Is that what you're after, Mr Cordiano?

**Mrs Marland:** But, Madam Minister, excuse me. I mean, we are all jumping in, but I think it's the easiest way to do it.

**Mr David Winninger (London South):** Except for the Chair.

**Hon Ms Gigantes:** I actually sought the Chair's agreement.

**Mrs Marland:** But, Madam Minister, if you don't like the "primary purpose" wording, then why did you put it in your own amendment to the Rent Control Act?

**Hon Ms Gigantes:** But that's different. That is a test. You're creating a test then.

**Mrs Marland:** I have a technical question, a procedural question.

**The Chair:** Fine. That should be a point of order, I guess.

**Mrs Marland:** Yes, I guess it is. You know, it's very interesting, as we're going through these motions, and they all start "I move that the bill be amended," etc, and section whatever or subsection whatever of the act, what I'm wondering is, because we've got a bill that's amending three or four or five acts, should these motions not be worded to identify which act we are amending?

*Interjection.*

**Mrs Marland:** I know where we are, but what I'm saying is, somebody who isn't sitting through these hearings and goes back over these amendments, it's not identified on each motion which act is being amended, it just refers to "the act."

**The Chair:** In the sections it's quite clear which act you would have to be—generically, that works.

**Mrs Marland:** But in this case, we agreed to open section 81 of an act that isn't already in Bill 120, I'm saying. So I think we should have to identify the act.

**Clerk of the Committee (Mr Franco Carrozza):** But you have identified. If you notice, part I is the Landlord and Tenant Act, and the section that you would open is—

**The Chair:** It's an interesting point of order, Mrs Marland, but—

**Mrs Marland:** What you're saying is we're still in there. Okay.

**The Chair:** I think there is nothing out of order.

**Mrs Marland:** I wasn't suggesting it was really out of order; it was just a technical question. I don't have the floor.

**The Chair:** As you point out, the Chair has reasonably lost control here and he would like to restore some semblance of control. Mr Johnson actually had the floor when Mr Cordiano somehow managed a supplementary which somehow followed with another supplementary,

but I think Mr Johnson has the floor.

**Mr David Johnson:** There's one other question I'd like to pose to our legal assistants. The minister's concern is that this would require a tenancy agreement for every tenant, whether or not they were getting any care. As I interpret her concern, she thinks that is a bit wasteful to have people who are not getting any care whatsoever, that they would have to enter into a tenancy agreement, as I interpret what she said. Maybe you interpret something different, from the look on your face.

**Mr Lyle:** Yes, that wasn't my interpretation of her concern.

**Mr David Johnson:** What was your interpretation that her concern was?

**Mr Lyle:** I believe her concern was that in using these words we would end up getting into a discussion of what the primary purpose of the occupancy was. But I'm sure she can—

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**Mrs Marland:** But why wouldn't the tenants want the protection of a tenancy agreement?

*Interjection.*

**Mrs Marland:** That is the point.

**Mr David Johnson:** Let me ask you this: In terms of what we would be the most clear and avoid ambiguity, and considering the legal case in the court ruling, I guess, would it not be to leave the words "whether or not receiving the services is the primary purpose of the occupancy" in as originally proposed? Would that not be least subject to challenge, in your view, sitting there at this point, with what you know?

**Mrs Marland:** It's pretty tough for him with his view, sitting there, when the minister said a little while ago, "I don't believe you."

**Mr David Johnson:** But the minister said if you've got a contrary opinion she wants to hear it.

**Mrs Marland:** But she doesn't say she doesn't agree with him. She says, "I don't believe you," and the poor guy has to answer another question from us.

**Mr David Johnson:** Show a little backbone here.

**Mrs Marland:** Not the poor guy. Mr Lyle.

**The Chair:** Order.

**Mr Cordiano:** Mr Chairman, the point is—oh, is there a question?

*Interjections.*

**Mr David Johnson:** All right, I think I interpret what you're saying then by your silence there.

**Mr Lyle:** I'm quite happy to answer the question. I think I've already answered it. It's basically that I would prefer it to remain the way it is.

**Mr David Johnson:** You'd prefer it. This may not have been the minister's main concern, but if it was the main concern, that you're requiring a number of people to enter into a tenancy agreement, people who do not receive any care whatsoever, if that was your concern and this was wasteful, is that the way you interpret this whole amendment?

To me, from what you've said, this amendment says,



"There shall be a written tenancy agreement relating to" and then the rest of it you have to read together, from what I've heard you say, "the tenancy of every tenant in residential premises for the purpose of receiving care services," so that all runs together.

Does the tenancy agreement, by the way it's stated, pertain to only those tenants who receive some care services, whether it's a little bit or a whole lot, or does the tenancy agreement, in your view, pertain to all the tenants, even those who do not receive care services?

**Mr Lyle:** In my view, a written tenancy agreement would only be required by this subsection in the case of a tenant who's receiving some level of care services.

**Mr Cordiano:** But see—

**Mrs Marland:** No, it's my turn next.

**Mr Cordiano:** I'd like to clarify this. I have the floor.

**Mr David Johnson:** So if it was somebody's concern that this clause would require somebody who received no care services whatsoever to enter into a tenancy agreement, you would say, to quote you—well, I shouldn't quote you—but you would say that you disagree with that opinion, and in fact this does not require a tenant who receives no care services to enter into an agreement.

**Mr Lyle:** Yes, I would agree with that.

**Mr Cordiano:** But see, look—

**Mrs Marland:** Oh, wait a sec, I guess I'm next.

**Mr Cordiano:** No, you're not. I had the floor to begin with. I conceded it to you as a courtesy.

**Mrs Marland:** Where am I on the list?

**The Vice-Chair(Mr Hans Daigeler):** Mrs Marland is next apparently, yes.

**Mr Cordiano:** I was on that list.

**The Vice-Chair:** Yes, you are, but after Mrs Marland.

**Mrs Marland:** I would like you to know it's 3:15 and it's the first time I've spoken legally since 2 o'clock.

I guess I have to, through the Chair, ask the minister a question because we're dealing with a bill here, which is An Act to amend certain statutes concerning residential property. We also have a reference to a Residents' Rights Act. We have a Minister of Housing who is so concerned about tenants in this province that she wants everybody to be protected by the Landlord and Tenant Act, right?

**Hon Ms Gigantes:** That's not what we're proposing.

**Mrs Marland:** But I am correct when I say that you are so concerned about tenants that you want everybody to be under the LTA.

**Hon Ms Gigantes:** You had your answer.

**Mrs Marland:** You would prefer it, so that's what you want.

**Hon Ms Gigantes:** That's not what we're proposing.

**Mrs Marland:** Now we're debating a motion of Mr Cordiano's which is giving a tenancy agreement to certain people and you want to—because that's what you want. If the wording was good enough in your amendment to the Rent Control Act, I really don't understand why it isn't good enough here, because what you want is to protect their tenancy. If you want to protect their

tenancy, why wouldn't you want all tenants to have a tenancy agreement?

I think the simplest way Mr Cordiano could word his motion would be to say, "There shall be a written tenancy agreement for every tenant in a care home as defined in subsection 4(1) of the bill." "Care home" is already identified in the bill. If you do that, Mr Cordiano, you've got a definition of "care home" and you've got a definition of the services that the minister endorses, because that's the wording she's got already in her Bill 120.

**Mr Cordiano:** Let's ask Mr Lyle what he thinks about that.

**Mr Lyle:** I'm not sure what the question was.

**The Vice-Chair:** Are you finished, Mrs Marland?

**Mr Cordiano:** Just a minute. She's going to ask him.

**The Vice-Chair:** Are you asking a question?

**Mrs Marland:** Do I have to repeat all of that?

**The Vice-Chair:** No. The only thing is that Mr Cordiano cannot amend his amendment to the amendment right now. We'd have to defeat this one first.

**Mrs Marland:** Wouldn't it be simpler if this amendment of Mr Cordiano—you have his amendment in front of you?

**Mr Lyle:** Yes, I do.

**Mrs Marland:** Wouldn't it be simpler to address the concerns that he has, which we share? We agree with his amendment, but wouldn't it just be simpler for that amendment to say, as a section 2.1 of section 81 of the Landlord and Tenant Act, "There shall be a written tenancy agreement for every tenant in a care home, as defined in subsection 4(1) of this bill"?

**Mr Lyle:** You'd actually have to make a reference to a section of the Rent Control Act for technical—

**Mrs Marland:** "Subsection 4(1) of the Rent Control Act, which follows in this bill."

**Mr Lyle:** I think I might like to refer that question to legislative counsel. I think it's a question of preferred methods of legislative drafting. I think the preference is generally not to refer it to another statute if at all possible.

**Mr Russell Yurkow:** Actually, the same wording appears in subsection 1(2) of the bill. I think Mr Lyle had already pointed that out. Subsection 1(2) has already passed, so that wording would already be in the Landlord and Tenant Act. So you wouldn't have to refer to the Rent Control Act.

**Mrs Marland:** This is getting more and more fascinating. If we've already passed it in section 1 and the minister doesn't agree with the wording—

**Hon Ms Gigantes:** We haven't passed section 1 yet, but it's there.

**Mrs Marland:** We haven't passed section 1.

**Mr Yurkow:** Subsection 1(2).

**Mrs Marland:** Okay. I'm talking about—

**Mr Cordiano:** Under the definition of "residential premises."

**Mr Yurkow:** That's correct.

**Mrs Marland:** Subsection 1(2), the definition of "residential premises."

**The Vice-Chair:** This was stood down.

**Mrs Marland:** It was stood down, but I didn't hear the minister have a concern about the wording above "whether or not receiving the services is the primary purpose of the occupancy." Minister, why are you concerned with Mr Cordiano's wording when it's in a bill that you've already approved? I assume you approve the wording of these bills before they're tabled, do you? Do you approve the wording of the bill before it's tabled?

**Hon Ms Gigantes:** Let me see if I can explain adequately.

**Mrs Marland:** But can you just answer that question?

**The Vice-Chair:** Please let the minister respond.

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**Hon Ms Gigantes:** The phrase may be appropriate and necessary for certain purposes in a bill, but not necessarily appropriate and necessary for certain other purposes in a bill. The purpose that Mr Cordiano is trying to achieve is to provide a tenancy agreement that covers matters related to care services and meals.

That seems to me totally consistent with the primary purposes of the bill, which will, among other things, provide that operators will set out information about care, care services, meals, costs, all those provisions of services within the care home. It therefore seems very reasonable that there should be a tenancy agreement.

However, if there is an occupant of a care home who may not be in need of care services, why should that occupant have to sign a care service agreement? This is a care service agreement; it's not an agreement about anything else. So why should the occupant who doesn't need the services have to sign a care services agreement?

**Mr David Johnson:** It says you don't have to.

**Hon Ms Gigantes:** There we disagree. I think that phrase implies that and I think the phrase "whether or not receiving the services is the primary purpose of the occupancy" is not useful here, because there is not a test here except the receipt of services. If you receive services, you sign a tenancy agreement. If you don't receive services, why should you have to sign a tenancy agreement?

**Mr David Johnson:** You don't have to.

**Mrs Marland:** In nine years I've spent a lot of time on committees going through clause-by-clause and I have never heard such convoluted answers in my life. The minister didn't answer my question, which was, does she approve a bill before it is tabled, a bill that carries her name? Do you approve a bill that carries your name, Minister, before it's given first reading? I want to wait for the answer to this question from the minister.

**Mr Cordiano:** Am I next on the list?

**The Chair:** Yes.

**Hon Ms Gigantes:** Yes, Mr Chair.

**Mrs Marland:** You do approve it? Thank you for answering that. So how is it that you approve a certain set of wording which is very specific and descriptive in the same section of the bill that Mr Cordiano's motion

which is on the floor now is trying to make an addition to, and then in fact continue the same wording in the next section of the bill?

The wording is identical. I'm quite sure that whoever drafted this for the Liberal caucus went to the bill, checked out what the wording was in part I, went to part II, checked out the wording, and drafted his motion, the motion that would be coming from the Liberal caucus, to use the same wording.

Now we have the minister saying, "Oho, but you can only use that wording there and this wording there. You can't use this wording because it has a different meaning for your motion, Mr Cordiano. It has a different meaning."

Even legal counsel—why do we have legal counsel? Who do we listen to on this committee? Do we listen to legal counsel, who is independent, non-partisan, or do we listen to the minister? What is the committee to believe in terms of the answers when we have a minister who doesn't say to legal counsel, "I don't agree with you," but says to legal counsel, "I don't believe you"? I think that's pretty degrading for that legal counsel, personally, and I don't think it's funny. I think it's degrading. I feel sorry for legal counsel to have to take that.

I think it leaves a very serious dilemma for the committee members because we come back to the fact that we are dependent on what we hear as a result of our questions in trying to deal with amending this bill clause by clause, and in fact in trying to deal in this particular case with Mr Cordiano's motion which is on the floor, we're dependent on the answers and the information that we glean from our questions.

We are put in a very difficult situation where legal counsel does confirm an understanding that we all seem to be able to have about the wording and what the impact of that wording is. Yet we have a minister saying, "I don't believe you. It doesn't mean that."

Where it's going to matter, as I said yesterday, it's only going to matter in one place. It's going to matter down the road when somebody walks in to their lawyer with this bill with the wording in the bill. If Mr Cordiano's motion is rejected on the basis that it uses the same wording in other sections of the bill, it's unbelievable. I really wish we had a video of this because I think we should keep it. It's historic.

**Mr Cordiano:** If I may, after a great deal of exchange here, I think we've come to a point where I almost understand what it is that we're doing.

**Hon Ms Gigantes:** That's good.

**Mr Cordiano:** That's pretty scary. I think there is a difference of opinion here between the minister and myself with the stated and original amendment. However, I should point out to the minister that, even by excluding the words that she finds unacceptable, in my opinion—and I'm going to ask Mr Lyle to come before us again—this would still apply to every tenant.

**Mrs Marland:** With his bulletproof vest.

**Mr Cordiano:** It would be necessary for that tenant to sign a tenancy agreement by virtue of the fact that meals are included, and if you look at the wording of the



amendment, unless a tenant were to exclude himself from the meals portion of the program, which I find inconceivable—

**Hon Ms Gigantes:** No. There are places.

**Mr Cordiano:** Perhaps that might be the case.

**Hon Ms Gigantes:** There are places where some people take meals and other people don't take meals.

**Mr Cordiano:** Perhaps in smaller facilities.

**Hon Ms Gigantes:** Some larger facilities.

**Mr Cordiano:** I think meals are an essential part of what goes on in a facility each and every day for almost everyone in that facility, and I suppose they could exempt themselves from meals, but getting back to my original point, it was my intention to have everyone dealt with in the same fashion. By removing that wording, I don't believe that will be the case.

I'm somewhat concerned. I suppose in this particular section I'm not as concerned, but when we do get to the other sections or the other amendments that I propose, it is going to become evident that tenancy agreements are going to have to be entered into as a requirement of entry into these facilities and as a requirement for emergency access provisions, which I think is another feature of all of these.

**Hon Ms Gigantes:** If you don't have a tenancy agreement, you don't get accommodation.

**Mr Cordiano:** I think it's essential to have a tenancy agreement in order that there be access provisions because of Bill 120. I think as it stands now, anyone entering into these facilities signs an agreement.

**Hon Ms Gigantes:** An agreement for what?

**Mr Cordiano:** What do they sign now?

**Hon Ms Gigantes:** I think your main concern has to do with entry into somebody's unit.

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**Mr Cordiano:** My concern has to do with a number of things, providing protection for those residents, consumer protection and also protection that is afforded to them to secure their residency in that institution. Because of the very nature of what we're dealing with, which is not entirely or exclusively accommodation because it includes care, we're having to do this. I don't think it would be essential if care were not a component.

Getting back to your point, however, my concern is that at one level or another, however minute, almost everyone in that facility will require care or at least the possibility for someone to look in on them in a facility such as this. That is why I think everyone entering into these facilities should have an agreement so that they themselves can determine just what those provisions might be. It's not to preclude someone from entering into the institution, or the facility—some are institutions still—but it is rather to give people the flexibility around how they want to be treated by the operators.

I think that's what this will do. In effect, it will be possible for a resident of a facility to say: "I want this level of treatment rather than what you're going to offer to everyone else. I want to be able to do this." It might be minimal, but it still spells it out in an agreement so

there's no misunderstanding.

It further strengthens the hands of residents, because it gives them a contract by which then they can deal with an unscrupulous operator, if you will, who would have them go out on the street. This would preclude that from happening entirely, because even if they have their meals outside of a facility and even if they have a very limited amount of care, the fact that an operator would look in on them or have one of the attendees who is usually there to look in other people walk by and see that they're not smoking in their room after having fallen asleep is something that I think would not be precluded by signing a tenancy agreement.

That's why I think in almost—well, I think in every case it's not going to be a deterrent. It's not going to be a way to exclude people from entering into a facility just because they have to sign an agreement. I think an agreement makes it all the more clear as to the rights of the individual resident and it would spell that out. In fact, a court would then have a way to determine that if there is an agreement there, that cannot be superseded by anything else. Mr Lyle, would you not say that that would be the case?

There would be no question as to the rights of that resident if they signed an agreement is what I'm saying, even if there was no care or limited care of the type that I spoke about, which was that an operator would have someone look in on a resident from time to time, requiring no additional care but simply the fact that someone smokes in their room and, as a safety measure, the operator would be permitted to enter the unit to look in on this person so that there isn't that kind of emergency.

**Mr Lyle:** I'm really not sure what you're asking me to comment on from a legal perspective.

**Mr Cordiano:** My point is that if we had everyone sign an agreement, it's not going to take rights away from that person who has minimal care provided to them. I think this is what the minister is concerned about. Why should a person who's not receiving that much care—because I think in these facilities it could be argued that they receive some care, which is very minimal, and the care I'm referring to is the mere fact that someone looks in on someone who is a smoker, for example, to ensure they're not going to engulf themselves in flames.

It gives them the right to prescribe what is acceptable to the resident. It allows for that great flexibility. The tenancy agreement would allow each and every tenant to stipulate that in an agreement, and it would not have the effect of excluding someone, because everyone has a right to an agreement, whether that agreement is just one line or two lines or two or three pages.

**Mr Lyle:** I guess I'm still unsure as to what you're asking me in terms of a legal opinion.

**Mr Cordiano:** What I asked you was that the fact that someone signs a tenancy agreement would not diminish their ability to enter into a home or their right to enter into a home, because everyone would be offered the same right after having signed an agreement.

We're not saying that the agreement has to contain all of these provisions. I don't think we're saying in any of

my amendments that it need necessarily provide for these things. Agreement could be reached between an operator and a resident to their mutual understanding.

**Mr Lyle:** Certainly, tenants' agreements are arrived at all the time and some are in writing and some are not.

**Mr Cordiano:** And they're all quite different.

**Mr Lyle:** There are some that are quite standard.

**Mr Cordiano:** And some that are very different.

**Mr Lyle:** True.

**Mr Cordiano:** We're not suggesting that all of them have to be the same. There may be a standard by which everyone agrees at some point.

**Mr Lyle:** But all are subject to the Landlord and Tenant Act.

**Mr Cordiano:** Right. Anyway, that's my point.

**The Chair:** Further questions or comments on Mr Cordiano's subamendment? Shall Mr Cordiano's amendment carry?

**Hon Ms Gigantes:** Is it amended?

**The Chair:** To the amendment.

**Mrs Marland:** I think he'd like to be here for the vote.

**Mr Cooper:** Was there ever a motion to have the amendment amended, to have that section taken out?

**The Chair:** Yes.

**Mr Cooper:** And that's what we're voting on?

**The Chair:** I can read it for you. Mr Cordiano moved that his amendment be amended by striking out the words beginning with "whether" in the second line and ending with "occupancy" in the third line.

**Mrs Marland:** Who moved that?

**The Chair:** Mr Cordiano.

**Mrs Marland:** So he moved his own amendment to take it out.

**The Chair:** Yes.

**Mrs Marland:** And the minister has said she would—

**The Chair:** All in favour?

**Mrs Marland:** Excuse me, I'm just asking a question.

**Hon Ms Gigantes:** There's a vote going on.

**Mrs Marland:** The minister said she would support it with that taken out, right? Okay. So we can do it without Joe here.

**The Chair:** All in favour of Mr Cordiano's amendment? Carried.

**Mrs Marland:** Now we're going to move on the motion as amended? Great.

**The Chair:** We will now consider Mr Cordiano's amendment, which now reads, and I'll just help the committee with this, "There shall be a written tenancy agreement relating to the tenancy of every tenant in residential premises for the purpose of receiving care services and the agreement must set out what has been agreed to in respect of care services and meals and the charges for the services and meals." Mr Cordiano, do you wish to speak to your amendment?

**Mr Cordiano:** I don't think much more needs to be

said at this point. I think it's been made quite clear why we're doing this and I think we just move on with the vote on the amendment.

**The Chair:** Further questions or comments? Shall Mr Cordiano's amendment to section 2.1 carry? Carried.

**Mr David Johnson:** Can I ask a question? I note that it is not only Thursday, March 10, but it's after 2 o'clock. I wondered if the reports that the minister had agreed to distribute this afternoon are available.

**Hon Ms Gigantes:** Five minutes. There was one phrase we were going to change in the draft I just looked at. It's a very brief report.

**Mr David Johnson:** We're all looking forward to it.

**The Chair:** We are then to another motion from Mr Cordiano.

**Mr Cordiano:** I move that the bill be amended by adding the following section:

"2.2 The act is amended by adding the following sections:

"Tenancy agreement: right to consult

"81.1(1) Every tenancy agreement shall contain a statement that the proposed tenant has the right to consult a third-party advocate in respect of the agreement within five days after the agreement has been entered into.

"Cancellation

"(2) The tenancy agreement comes into effect on the expiration of the five days unless the proposed tenant notifies the landlord, in writing, that the agreement is cancelled.

"Accessory apartment registration

"81.2(1) No person shall rent out an accessory apartment unless the apartment is registered with the municipality in which the apartment is situated.

"Inspection

"(2) A municipality may inspect an accessory apartment as a precondition to registration.

"Fee

"(3) A municipality with which an accessory apartment is registered is entitled to a fee based on recovering its costs for the registration and the inspection if there is an inspection.

"Penalty

"(4) Every person who rents out an accessory apartment in contravention of subsection (1) is guilty of an offence and, on conviction, is liable to a fine of not more than \$5,000."

There's quite a lot here. First of all, let's deal with the right to consult. This would simply follow on the introduction of the tenancy agreement.

1540

**The Chair:** Mr Cordiano, this amendment is out of order as it deals with a section that is not open in the bill.

**Mr Cordiano:** I ask for unanimous consent.

**The Chair:** Do we have unanimous consent? Agreed.

**Mr Cordiano:** Dealing with the tenancy agreement, the right to consult, it would follow that having entered into a tenancy agreement, a resident would have the right



to consult a third party in respect of the agreement that was entered into. This is for the protection of the tenant and resident in order that he or she may understand fully what he or she has entered into in terms of a contractual arrangement. I think that at the very least this would provide for a cooling-off period so that this person may in fact seek this third-party advice.

Just following on that, the provision-for-cancellation clause is there for the agreement to be cancelled by way of written notice after the five-day period.

Mr Chairman, for the next section dealing with accessory apartment registration, because it deals with section 81, these two are lumped together. Obviously, I had legal advice that this was appropriate. We're dealing with two different notions or two sections of the bill that are distinct, in my opinion, but deal with—

**The Chair:** I would suggest, Mr Cordiano, and to the committee, that perhaps the best way to proceed would be to deal with your proposed amendment sections separately, just so we can have a more logical—based on usage.

**Mr Cordiano:** I was hoping you would say that, Mr Chairman, because we can deal with the tenancy, the right-to-consult and cancellation provisions first and then get into the discussion around accessory apartments.

**The Chair:** Is there further discussion on Mr Cordiano's amendment relating to section 81.1?

**Hon Ms Gigantes:** I would indicate my support for that section of his amendment.

**The Chair:** Further discussion? Shall subsections 81.1(1) and (2) carry? Carried.

Now we'll deal with the next section, 81.2.

**Mr Cordiano:** The accessory apartment registration obviously is going to take us in a new direction which I think will take some time. That's a prelude to the discussion that will ensue on this.

It is our opinion that it is absolutely critical for municipalities to be able to register every unit that exists out there. We heard time and again from municipalities that they had no way of knowing where these currently illegal units, and I might add unsafe units, exist, where in their municipalities they are in fact located. This provision for registration would enable a municipality to identify where these units currently exist.

As well, this deals with the necessary inspection that would ensue. In order for us to make units safe, in order for municipalities to ensure that these units are safe, they need to make inspections of these units.

I think it's only reasonable that we afford that possibility in this legislation by, firstly, making it a requirement for these units to be registered so that the municipalities know where these units are located. It is mandatory that they register. That is the only way to compel people to register with a municipality. It's not an option; it is a mandatory requirement. You register your unit and as a matter of having registered, the municipality then has every possible way to make an inspection necessary.

The other item deals with the fee and of course the penalty. The fee is necessary on a cost-recovery basis, because as we heard from, I believe it was, the fire chief

of Mississauga, it would take 84 man-years, I believe he said, to inspect every single unit in Mississauga. If they had one person working on it for the next 84 years, that's how long it would take. They simply could not inspect every unit in the city.

That does not even speak to the notion of having the municipality inspect these units additionally to the fire inspection that might take place. There is a problem with inspection and the question of who's going to pay for it. This is not something that we should take lightly. To ensure that these units will be safe places in which to live is what I think one of the requirements of this bill was intended to be, that these units be made safe. I don't believe that Bill 120, as it is conceived and as it is written at present, will do just that, because simply by making units legal as of right will not compel these people to come forward and make their units safe. There's no incentive to do so. In order to make them safe they're going to be required to spend additional dollars to bring them up to a standard that is acceptable in terms of the building code, the fire code etc.

In my mind, if you're going to legalize these units as of right, then you have to give the municipalities the ability to inspect the units, to make it mandatory, as well as give them the necessary resources on a cost-recovery basis to inspect these units to ensure that they are in fact safe. Failing that, I don't believe for an instant that this legislation will lead to safer places to live. I'm quite convinced of that, Madam Minister.

I don't believe that simply by waving a magic wand people are going to instantaneously come forward or that the provisions of the bill whereby a municipality can search the premises of a unit with a search warrant will even provide the incentive for municipalities to go out and inspect these units. I don't think that's the case.

I think this may also happen: It's not contemplated in the bill, but other people exposing the fact that there's an illegal unit and then having to be granted a search warrant to inspect the premises to ascertain whether or not this is a safe unit is quite an ordeal to have to go through. I just don't think this will happen. I think it's necessary that we allow for a municipality, firstly, to register the units, and I'm going to reiterate this, to identify where the units exist in a municipality by requiring that every single unit register with a municipality. There is no question that then these units will be identified and that then these units will be inspected for safety.

I think that's what this amendment will do, and I think and hope that every member of the committee would support these amendments, because they speak to the requirements for safety and they speak to the needs of those vulnerable tenants who will be living in these unsafe units if we allow the bill to go forward without these necessary amendments.

1550

At the end of the day are we not concerned, as we heard repeatedly from the numerous people—there was a fierce debate one day when the mayor of Mississauga was here. Quite frankly, I don't want to engage in that kind of rhetoric, because we put people first, and by putting people first, let's make it happen. Let's give



municipalities the right to inspect these units and let's ensure that safety is of the highest order in this legislation. Let's ensure that by allowing municipalities the necessary tools in order to make those inspections and by requiring that units be registered with every municipality in the province of Ontario.

**Mrs Marland:** I think one of the most significant briefs on the subject of accessory apartments that this committee received was one that was apolitical. It was the one presented to the committee by Cyril Hare, the fire chief of the city of Mississauga. He speaks very strongly to a number of issues which actually are not within the municipal purview in terms of jurisdiction.

One of the things he talks about and why I am supporting the motion that's on the floor is that without a registry the municipality simply doesn't know where these accessory apartments exist. For firefighters, of course, when they go to a home, if that basement apartment isn't registered—if it happens to be in the basement; it obviously isn't always in the basement—there is always a tremendous risk for those firefighters onsite anyway, but there's an added risk for them when there are two homes in one building if one of them happens to be in the basement.

If they know that there is a basement apartment and that in all likelihood there would be occupants there—obviously, if it was a nighttime fire, that likelihood would be greater—they would approach the fire differently and they would deal with the circumstances differently.

When firefighters go into the basement they are at the greatest risk in that house. Tragically, we've had some very real examples of that in Mississauga, where our firefighter of the year last year was very badly burned because of the back draught in the basement.

When we're talking about the importance of registering where these homes are, we also have to talk about the other part of the tool, which is that when they are registered we have to be able to inspect them to ensure that they are safe. As much as, ideally, we want to do both of these things, neither of them is going to be easy to accomplish because the reality is, as Chief Hare said, and I quote on page 12:

"Accessory apartments are most often occupied by immigrants and the disadvantaged. These people are the people who are least likely to know their rights and are often afraid of government authorities. The majority of our complaints come from disgruntled neighbours, not from tenants."

I think that when Chief Hare is saying that, he's speaking from his broad experience and he's warning us that simply passing legislation isn't going to make it happen. He's warning us that he has a concern with Bill 120, and I quote again so that you don't think I'm paraphrasing or misinterpreting what Chief Hare said to this committee. He said, on page 11: "The current bill requires registration for the purposes of rent control, but does not contain any requirements for registration with municipalities for the purpose of safety."

There has to be a tremendous irony there, because what would be more important to that tenant than their

safety? Certainly, if the families and relatives of those people we have already lost in fires in basement apartments had any choice, it wouldn't be a matter of controlling the rent, because in basement apartments the marketplace has been controlling the rent anyway. It certainly would be anything that could be done for the purposes of safety. When the fire chief has to point out to us that this bill requires registration for the purposes of rent control, but doesn't make any requirements for the purposes of safety, we have to look with great concern on that aspect of the bill.

Without a registry, we are dependent on somebody identifying that an accessory apartment exists. Then, when that happens, in order to be sure that apartment is safe, it has to be inspected. It's true that Chief Hare said, and I quote again, on page 10:

"In Mississauga, by the Ministry of Housing staff's own estimates, there are approximately 10,000 unregistered accessory apartments." Those aren't Chief Hare's estimates, they aren't the city of Mississauga's estimates and they're certainly not Margaret Marland's estimates; they are the Ministry of Housing staff's own estimates. He goes on to say: "Conservatively estimating the person-days required to inspect, review plans, reinspect and occasionally prosecute offenders at two person-days per apartment, gives my municipality approximately 20,000 person-days of work. This is equal to 87 person-years. This estimate does not take into account the social contract. There is no municipality that has enough fire prevention or bylaw enforcement staff to complete the inspections within a reasonable amount of time." That's the end of the quote.

Without compulsory registry, which is what the motion on the floor speaks to, how is the bill going to do anything about ensuring the safety of people who have these accessory apartments, the people who occupy these accessory apartments, or even ensure the obligation of the people who own the buildings and benefit from the income from those accessory apartments to fulfil an obligation in law? It simply isn't going to happen.

**1600**

If the province made a registry of these apartments mandatory, then as soon as the first few illegal apartments—they now would be illegal because they're not registered—were charged a substantial fine for not registering, we would find that people would very quickly come on board to register their accessory apartment in their building or they would choose to discontinue it, one or the other.

If you're going to be in favour of basement apartments, you take on a tremendous responsibility. If you're in favour of basement apartments, you're saying that it's okay for people to live in a facility which may put them at very high risk in terms of their personal safety. Although Bill 120 is going to tell people in basement apartments that they can have an inspection to ensure that their apartment meets the requirements of the fire code—whatever those are going to be; we haven't heard yet what they're going to be—and although Bill 120 says that everybody can have an accessory apartment as of right, regardless of zoning, although it gives all those rights,



gentlemen, it's only paper. Things don't happen because a government passes a bylaw or a statute. That is not the enforcement tool. It simply is paper. By passing Bill 120 and saying that as of right there will be legal basement apartments or accessory apartments, and people don't have to worry because they can now demand that their facilities be inspected, first of all, how many of them are going to know that they can ask for inspections and, secondly, who's going to pay for the inspections? How are they going to happen?

When the municipalities tell you, as they have a number of times through presentations to this committee and through their province-wide organization of the Association of Municipalities of Ontario, AMO, "Give us the jurisdiction because we want to decide from a planning point of view where accessory apartments may go," there's a reason for that. One of the reasons is from a planning point of view, but the other reason is that they would then know where they are, they would have the control.

All you're doing with this bill, especially if you vote against this registry requirement, which is the motion on the floor, all you're saying is that they can be anywhere and that they can be inspected. That takes the responsibility away from me as a legislator. If you vote for Bill 120 as it is without a mandatory requirement to register an accessory apartment—it's a little hard to talk when there are discussions going on at the same table—if you think that's good enough for you, then that's got to be your decision and up to you and your conscience. But you must know, as intelligent men—it's ironic that I'm the only woman on the committee today—that things don't happen just automatically because a province or at least a level of government says so. It just doesn't happen.

If that were the case, we wouldn't have an underground economy that's scooping away 15% in taxes across this province, because the law says there has to be 7% sales tax and 8%—or the other way around. The law says that retail sales tax must be collected and it says the goods and services tax must be collected, and it's not happening.

I say to you that because we suddenly say these apartments are legal and because we say that the people who live in them can ask for inspections from the fire department and from their municipality, that it's going to happen, it isn't and it can't happen in the format that is outlined in this bill simply from the real, practical aspect of it.

When Chief Hare talks about 87 person-years just in Mississauga, who's going to pay for it? Where do you think the money's going to come from? If they were to hire all the staff that is required for this, then there would have to be an onus on the person who owns the house, who benefits from the income from an additional accessory apartment. Maybe that is the solution; maybe that is the way it could be worked out.

I believe that if you're going to legalize accessory apartments, of course there has to be a way of ensuring that they're safe, but my warning to you is that it's not going to happen just by passing a bill, without keeping some control over what happens next and what this

motion says is, "No person shall rent out an accessory apartment unless the apartment is registered with the municipality in which the apartment is situated." As soon as you go to register your accessory apartment, the municipality can ask you if it's been inspected and you would be able to show a certificate if it had, so we would know there was no fire risk to those occupants, and if it hadn't been, there would be a fee, the same as any building certificate fee or a building permit fee.

You can't do anything to your house—I think it's 100 square feet. If you build anything bigger than 100 square feet, you need a building permit. There's a reason for building permits. It's not some income-generating source for a municipality, and those of you who perhaps have been municipal politicians, as Mr Johnson and I have been, know full well that the cost of building permits is covered by the fee. That's because it takes staff time to look into whether a building permit will be issued. A building permit is issued to say that the building meets the Ontario Building Code, whatever the construction is. The reason we have an Ontario Building Code is the same reason we have an Ontario fire code; that is, to ensure the safety of the occupants of that building.

The Ontario Building Code doesn't deal with exterior cladding and how a building necessarily looks. A building code deals with the safety features and the structure of a building. You obviously know what the fire code addresses. But if you want to have a building or an addition to your house or a major renovation to your house, you have to get a building permit, and you pay a fee for the building permit. So if you're going to have an accessory apartment and you're going to benefit from that income, then you're going to have to have it inspected to ensure the future occupants are safe, just as the house you are living in originally had a building permit to say it was safe when it was originally constructed, and it's all done on a fee-for-service basis.

#### 1610

Without a mandatory registry in every municipality, none of these things is going to happen. I was wondering whether we should suggest how a registry might be engineered, but I think it makes far more sense to leave it up to a local municipality to decide how it wants to manage its registry, but just to ensure that they have one. The cost for it obviously would be on a user-pay basis. That's the only way a municipality will be able to staff up to meet all the inspections that are going to be needed so that those of you who vote in favour of basement apartments can sleep at night because you know they're going to be inspected. They're going to be inspected because everybody is going to know about it.

Do you know something else that's interesting? Usually, neighbours know where these accessory apartments are, and I think, with the high profile and publicity that's happened—I'm speaking as the Housing critic for our party, which obviously is a province-wide responsibility, but speaking also as someone living in a municipality that has had two tragic fires in basement apartments in the last three months, because of the publicity that has drawn and of course the ongoing inquest into one of those tragedies, if the province passed this bill with a



requirement that all basement apartments be registered, I think you'd find a lot of information flowing into the municipal offices or to the locally elected councillors about where these apartments exist.

That also, of course, brings me to another tool that has to be part of this whole thing which is not addressed in Bill 120; that is, the fact that the fire chief doesn't have the right of entry that he needs because of this bill. That's something else Chief Hare speaks of. If we're talking about registering accessory apartments and then the following requirement for inspection, I think it's important to look at what Chief Hare said on page 9. He says:

"An issue that goes hand in hand with the fire safety regulations is the right of entry. Bill 120 proposes to have the enforcement agency obtain a search warrant before compelling a property owner to allow entry. Although the bill proposes to make the obtaining of a search warrant easier, it is not sufficient. When obtaining a search warrant the informant must have 'reasonable and probable grounds to believe that an offence has taken place.' Unless you have been in the building, you will have no grounds to claim that there is a violation of any regulation. It has been our experience that a justice of the peace will not grant a search warrant without substantial evidence. In 1993 in Mississauga we were denied"—we being the fire department—"a search warrant even though we had an affidavit from a person who had been in a residential premises that we wanted to inspect."

You can't be in favour of basement apartments and give half the authority. It's like saying: "Okay, this is fine. As of right, everybody can have them. They're going to be legal, and we're not going to have to worry any more about people being burned to death in them because they're going to be inspected. So it's all off my shoulders. I don't have to worry any more if I vote in favour of this." It's not going to happen.

I think that the motion that's on the floor goes partway to meeting some of the concerns of the fire chief, those of you who were privileged enough to hear his presentation, and I realize there were other fire chiefs who made excellent presentations also to this committee. There were other fire chiefs from around the province who wanted to, and time didn't permit hearing from them.

I really feel that you've got a tremendous responsibility if you're voting in favour of Bill 120 as it is, without the necessary amendments to make safety and protection of those accessory apartment occupants protected.

**Mr David Johnson:** I obviously have problems with this legislation as it's intended. I will be supporting the particular amendment that's before us because it makes a bad situation a little bit better. As I was sitting here, I was leafing through some of the letters that have just come to us within the last day, I guess. I've come upon one from my own constituency. It's called the Don Mills Residents Inc. Their view in terms of the whole issue of accessory apartments is that they are certainly opposed to it and are registering their concerns. That's one of many letters that are before us today.

I see a letter from the city of Brantford. The city of Brantford has expressed to the "ministers of Housing and Municipal Affairs and to the Honourable Brad Ward...its

opposition to the proposed amendments to the Planning Act" to allow for a second residential unit as of right in a single detached house. In terms of their rationale, I think this is probably fairly representative of most municipalities. They've indicated that it's an unprecedented intrusion on the traditional authority of municipalities to plan, zone and regulate land use within their communities.

They, I believe, are expressing what many municipalities have expressed, that they, along with their citizens, have planned their communities over many years and they planned those municipalities to take into account varying local circumstances.

This was reflected in some of the deputations that we heard, not only the letters that we're getting now but in terms of the deputations that we heard through the hearing process. I recall, for example, the mayor from Waterloo being before us and indicating that the housing in Waterloo was very influenced by the fact that the university was there and that they had set in place some different zoning close to the university to accommodate students. But they were deathly afraid of this particular bill because the housing they had set in place permitted up to five people, I think, in a residence. It was not uncommon to have five students renting a house.

What would happen under this bill, according to the mayor of Waterloo, would be that there would be two units permitted, as of right, with five people in each unit. So instead of having five people in a house, you'd have 10 people in a house—10 students in a house, more than likely, near the university—and this was not contemplated in their planning that they had pursued for many years with their local citizens. This undoubtedly will cause severe problems in the Waterloo area.

#### 1620

The city of Brantford also makes the point that it doesn't take into account local conditions, just as it doesn't in Waterloo and, I might say, in the city of Hamilton. There was, again, a deputation, not from the council but from a citizens' group that apparently was put together with the support of the city of Hamilton. In view of the older housing stock in the city of Hamilton, in view of a housing stock that had in many cases what they called cellars, I guess, as opposed to basements, they had to put in place certain zoning in the city of Hamilton which permitted accessory apartments up to a certain point, but they could not support a complete as-of-right situation in the city of Hamilton.

This, in the view of this particular group, would cause not only concern, but would cause economic hardship in the core of the city of Hamilton. This is something that has been developed in that city with the people there over a period of time and again developed because of the nature of the housing stock and various circumstances in the city of Hamilton.

I recall the mayor of the city of Ottawa being before us and indicating that in her municipality—and, Mr Chair, I see from the smile on your face that you may recall it too—there was at least one prominent area, and there have been more than one area, that was prone to basement flooding in the city of Ottawa. It was her view



that this is going to cause severe problems in the city of Ottawa if we're looking at an as-of-right situation in terms of basement apartments, for example, accessory apartments—in the case of Ottawa, probably basement apartments—and that this is certainly going to cause a problem and perhaps a very unhealthy situation.

I certainly had the opinion that the city of Ottawa was supportive in terms of housing initiatives in general and I think the city of Ottawa has a reputation in terms of being more supportive of housing issues, but I must say that I was pleased to hear that many cities have expressed support, in their own way, for housing initiatives, Ottawa certainly being one of them.

The city of Etobicoke came forward and the representatives from the city of Etobicoke told us that they had passed, back in 1990 I believe it was, a policy pertaining to accessory apartments. They had sent it along to the Ministry of Housing and they had yet to receive a response to it. It was a policy that was formulated in consultation with the council, of course, and its citizens and its staff. It was a policy that had certain conditions tied to it to meet the local circumstances, but they had failed to get any response from the Minister of Housing. Yet they were accused apparently—some municipalities were accused, at any rate—of not taking action that was fast enough or appropriate and, consequently, we have Bill 120.

Looking through, I see the city of Sarnia—I suspect this pile of the municipalities is endless. The city of Sarnia goes on record that it “objects to the provision set out in the residential properties statute law amendment act, 1993, with respect to those regulations...of the as-of-right creation of a second dwelling in detached or semidetached or town house dwellings.”

The gateway to the Kawarthas, Lindsay—we were in the town of Lindsay not too long ago. I think some other folks were in those environs—

*Interjection.*

**Mr David Johnson:** We both enjoyed it but at slightly different times, I suppose. I remember talking to the mayor and some of the council members of the town of Lindsay. They're very proud of their town. They have grave concerns, though, with regard to Bill 120, as has every other municipality that I've encountered. There must be one somewhere that supports this bill. I haven't found that municipality yet.

**Hon Ms Gigantes:** There are.

**Mr David Johnson:** There are? Okay, we'll come across them.

**Mr Gary Wilson:** On a point of order, Mr Chair: I really don't see what this travelogue has to do with the amendment we're discussing. It's a bit wide, isn't it? We're not discussing Bill 120 here; we're discussing the amendment put forward by Mr Cordiano.

**Mr Winner:** He'd rather discuss Kingston anyway.

**The Chair:** I am sure Mr Johnson will keep his comments to the amendment.

**Mr David Johnson:** Mr Cordiano's attempting to put in an amendment that will pacify, to a degree I guess, the concerns of the municipalities that I'm mentioning.

Certainly, all of these municipalities, in terms of their concerns, are expressing some of the concerns that I guess are addressed in this amendment. They're expressing a number of concerns, and I wouldn't want to be accused of minimizing their concerns.

**Mr Gary Wilson:** I don't think I'm doing that at all. I'm just saying that we are talking about one specific amendment here and Mr Johnson is all over the map, literally and figuratively.

**Mr David Johnson:** I'm just looking here with regard to the town of Lindsay and some of the concerns that it has. I know that one of the concerns they have is addressed in here, which is the right of entry. This is one that comes up with all municipalities.

In this particular amendment that Mr Cordiano has put forward, it indicates that for an accessory apartment to be rented out it must be registered first, and a precondition of registering would be that the municipality may inspect the accessory apartment. This gets at one of the concerns.

I would say that the major concern the municipalities have is that the provincial government has run roughshod over their authority that they've been given to plan their communities with their citizens, and they're wondering, given that this is the first instance of this treatment of the local municipalities, what can they expect next? What's going to be next on the horizon? How are they going to be disregarded in the next instance?

One of the concerns is that they have not had the ability to get in and inspect accessory apartments or basement apartments. This amendment by Mr Cordiano at least opens the door to that possibility, and I guess as Mrs Marland has indicated, even if your view is that municipalities are being snobbish or they're not being responsive or they're not toeing the line enough, at least I think you have to say that safety is a very prominent issue with regard to this whole bill.

Without the possibility of municipalities getting in to inspect, which we've already heard from Mrs Marland in terms of the fire chief—the fire chief has indicated that the provisions of this bill, the way it stands today before us, do not permit the municipalities to get in to do the inspection they need to do to ensure that the apartments are safe.

This amendment will allow that to happen in the first instance. It doesn't speak beyond the first instance, I guess, so down the road somewhere there may be problems, but at least it's a starting point and at least it allows the municipalities to get in in the first place.

I'm looking at the deputation from the fire chief of the city of Scarborough and to use his words, “Owners of accessory apartments in the house must be required to register these units with the local municipalities.” Here's a fire chief in one of the largest cities in the province saying: “If you want us to have a fighting chance of ensuring some sort of safety in these units, they must be registered. The registration of these units would be advantageous in many ways, including assisting the local fire departments in scheduling inspections, review of the plans, reinspections and prosecution where infractions of the regulations occur. The owners of these properties



would also be required to maintain the accessory units in acceptable condition enforced through an inspection program.”

1630

So municipalities cannot ensure the safety. They may not be able to ensure the safety under any circumstances, but certainly if they don't know that an apartment exists, then they cannot be held accountable or they cannot hope to have a higher degree of safety. If safety is the key issue, safety is why they're being registered and safety is why we need an inspection of the apartment, and in that regard that's why I asked earlier this week questions pertaining to the fire regulations, for example.

I'm glad to see that the minister has indicated that it is the intention to proclaim the new fire regulations at the time the apartment-in-houses provisions of the bill come into effect. We've seen draft regulations. I don't know if the final regulations are going to be the same as the draft regulations or not, but it would've even been superior if those regulations had been issued first, because I know the fire chiefs are very concerned about them, and there remains some concern.

I didn't really expect we'd be into this debate today so I haven't got my copy of the draft fire regulations with me, but there remains some concern about the access into these units and whether or not one of the accesses should be through or can be through another unit. If that's so, I know that's causing some of the fire chiefs a problem. I believe the draft fire regulations permit the access into the unit to be through another unit.

**Hon Ms Gigantes:** There has to be a second.

**Mr David Johnson:** There has to be a second access, but that second access can be a window, as I understand it, a window that is a certain height off the floor. Certainly, from the fire chiefs I've talked to, there are a number of them who are not fully satisfied with that. Now, I know that some of the fire chiefs assisted in terms of putting this regulation together. I think they view this as a minimum though, an absolute minimum, and there are many of them individually who are not really happy that the fire regulations, as they're drafted, are going to be adequate, that you could have one access through another unit.

There's concern that if a tenant can't get through that other unit somehow, because of a key situation or whatever, yes, there's a second access, but if that second access is a window, there will be a certain percentage of the population that will have difficulty getting up through a window, either the elderly or those who are disabled.

It's not a very good situation. The fire chiefs, certainly to me—I can think of the fire chief in the city of Ottawa, who actually wasn't permitted to make a deputation. I guess the official line is that he put in his request too late, but I can recall him sitting throughout the whole morning, I think it was, hoping to be able to speak. I thought we had some time at one point or at least we offered to come back early from lunch to hear him but that couldn't be arranged. I thought that was a pity, because he did express to me that he didn't feel that the regulations the way they stand are satisfactory.

**Mrs Marland:** We placed a motion and they voted against it.

**Mr David Johnson:** Well, that's true.

This raises the issue of the liability too. This amendment, as it stands, will allow the municipalities to get in and do an inspection if people indeed come forward and register, so it's a good step forward. My suspicion is that a lot of people will not come forward and register and that there will be many units that will not be registered. But nevertheless there will be certainly quite a number who will come forward, will register with the municipality and then the municipality will be able to inspect.

We've already heard from the fire chief of Mississauga that it was either 87 or 89, one or the other, person-years of work to inspect all these units. He has indicated that they simply can't do that. If all of them come forward, and even if half of them come forward, we're looking at a considerable amount of time. That isn't going to take place overnight; that's going to take place over a period of perhaps years. I don't know. It's going to take a long time to do that unless they hire a whole lot of staff, and certainly the municipal taxpayer isn't going to be too happy about raising that money. I don't know if there's going to be a grant from the province of Ontario to do that. I see the minister is contemplating that, but I haven't seen any provision in here for a grant to the municipalities.

**Hon Ms Gigantes:** That's right. You haven't.

**Mr David Johnson:** That probably means, since I haven't, that it's not there.

**Hon Ms Gigantes:** Grants are usually not in legislation, as you know.

**Mr David Johnson:** Grants are not in legislation. Maybe that leaves the door open a little bit.

**Hon Ms Gigantes:** No, it doesn't.

**Mr David Johnson:** No, it doesn't. The door is closed, then. There are no grants for municipalities.

Then the question of liability comes up. Given that these are registered and given that the municipalities have been put on warning that they exist, if there's a problem, if there's a fire, if there's another tragedy, unfortunately, such as we have had, what is the liability the municipalities would encounter? Could they be sued? What is the situation?

The response we have here is, “Bill 120 will not affect the extent to which municipalities are able to establish policies concerning the extent of enforcement activity.” I guess that's nothing new. “It's recognized that Bill 120 may generate a demand for additional inspections.” I like the word “may”; it certainly will. “However, it should be noted that municipalities which already permit apartments in houses, such as the city of Toronto, have not raised concerns about liability.”

The city of Toronto has the most generous assessment base. When I was mayor in East York, we had half of the assessment base that the city of Toronto had. The city of Toronto has certainly more resources to deal with these circumstances than any other municipality, bar none, in the province of Ontario. This is going to be a real financial problem to municipalities, to have to deal with



a whole lot of inspections in a short period of time.

This response still doesn't deal with the municipal liability, in my estimation. It doesn't indicate what additional liability the municipalities will be accountable for. I just don't think it answers the basic question, so the municipalities are still going to be wondering about that.

The other aspect of the amendment that's before us, which is a good one, that the municipality will be entitled to charge a fee for this, will I guess assist to some degree, but you can only charge so much to your home owners. You can say that you can cover the whole cost. I doubt it; I just don't think this is going to work. It's good to have this in here, because it'll help offset the cost, but I think we're looking at not only the fire department but the building department and probably the property standards people. We're looking at a number of people—health perhaps, perhaps Hydro. There are a number of people who could be involved in an inspection, just as there would be during normal construction of a house.

I don't think the municipalities are politically going to be able to charge a fee that would fully recover that cost. Then I get back to the previous argument, again, that with limited resources—we've heard this year, I think, of a 3% reduction in the grants to the municipalities.

**Hon Ms Gigantes:** You haven't heard that. You've heard speculation about that.

**Mr David Johnson:** We've heard speculation about that. It could be even more then, I guess. This is going to cause a problem and the municipalities are going to be caught right in the middle of it.

I'll support this amendment because it's for safety, and we're all here to support the safety aspects. This will permit the municipality to get in and look at it and make sure it's safe, but when you look at the total bill, it's the wrong way to go in my estimation. We're hearing that message right across the province of Ontario. Does the municipality of Hamilton-Wentworth support it? As far as I can see, there's no support anywhere across this province, but at least this is a small help.

1640

**Hon Ms Gigantes:** Very briefly, I appreciate the focus of the amendment. I believe the members who have spoken to it are concerned about safety in apartments in houses. I too am very concerned about safety in apartments in houses. The question is whether this really does contribute to greater safety in apartments in houses.

If we are being told by members of the opposition that people will not come forward to get their apartments inspected, how do they propose to do a registry, if people don't voluntarily come forward to get a building permit, to have an inspection? There is a legal obligation on people who are renting apartments to make sure that the standards of the fire code, the Fire Marshals Act, are met. If that doesn't bring people forward in a situation where they're no longer in an illegal status because of zoning, how do you set up the registry? Is it being proposed that we send out people door to door to find out where these apartments exist? How do you create the registry?

**Mr Cordiano:** What you propose in your—

**Hon Ms Gigantes:** This is a rhetorical question.

**Mr Cordiano:** I thought you were asking.

**Mrs Marland:** Do you want me to answer the question?

**Hon Ms Gigantes:** No, I don't.

**Mrs Marland:** Just take it out in their tax bill.

**The Chair:** Order.

**Hon Ms Gigantes:** There are difficulties. This is not a simple method to get everybody to come forward either.

**Mrs Marland:** Give them notice in their tax bill, and then with the first violation, a heavy fine. It'll work.

**Hon Ms Gigantes:** While the notion of a registry has some appeal, it also has some definite drawbacks. It will be expensive. We've heard members of the Conservative Party talking about concern about expense. This would be an increased expense to a system where people have affordable housing in apartments in houses. I don't see that it's going to produce enough of what they're looking for to justify what is being requested in terms of an increased cost for the system. Also, it would automatically move all those apartments in houses currently illegal because of zoning into a situation of being illegal because they weren't registered. You'd be an illegal operator until you were registered.

**Mr Cordiano:** What's wrong with that?

**Mrs Marland:** Why would making them legal make them safe?

**Hon Ms Gigantes:** Once again we'd have the situation where tens of thousands of units would be considered illegal and they'd be in a black market situation and the tenants would be afraid to make a complaint or bring forward a request for an inspection.

I was not present when Chief Hare of Mississauga spoke to members of the committee. I did read his presentation.

**Mrs Marland:** The Star agreed with him.

**Hon Ms Gigantes:** In response to some of the claims that have been made by members here, I will just read directly from the Fire Marshals Act, which I know they're familiar with, but it doesn't hurt them to hear it again. Subsection 18(1):

"Subject to the regulations, the fire marshal, deputy fire marshal, a district deputy fire marshal, an inspector or an assistant to the fire marshal may, upon the complaint of a person interested, or when he or she considers it necessary so to do, without such complaint, inspect all buildings and premises within his or her jurisdiction, and for the purpose may at all reasonable hours enter into and upon the buildings and premises for the purpose of examination, taking with him or her, if necessary, a constable or other police officer or the other assistants that he or she considers proper."

I believe that Chief Hare indicated he had never attempted to use this section and been denied entry. So I'd just remind members of that.

Ms Marland suggests that members had not been presented with the draft regulations. The members were

presented with the draft regulations. The consultation that Mr Johnson considers so important with fire officials around this province is going on currently. That consultation obviously will be an important part of the process of establishing new fire code regulations as they affect apartments in houses.

I'd just like to raise one other matter; this is a second matter, somewhat a side matter, an ancillary matter. Ms Marland quoted Chief Hare as saying that he was concerned that the bill registered rental accommodation for the purposes of rent control but didn't register rental accommodation for the purposes of safety. The registration under rent control is, as she knows, registration that is associated not with apartments in houses but with the care home provisions of this bill and it is for the purpose of being able to monitor ongoing costs.

**Mrs Marland:** So basement apartments won't be under rent control?

**Hon Ms Gigantes:** Yes, they are under rent control but we have not established registration of units in buildings of fewer than seven units so far. We are beginning to put into the registry information about those apartments existing in buildings with from between four and six units and we will work down, but the Rent Control Act does not apply to single units for registration purposes.

The other issue that there has been a lot of comment on has been the cost, the cost to municipalities of inspection and so on. The fact is that once we have a situation in which all new apartments in houses will require a building permit to be legal and they will have to meet fire standards, once a building permit is taken out by the potential owner of the apartment, then that's going to provide an indication to the municipality that this unit exists and that the property may be reassessed because it is now a revenue-generating property.

**Mrs Marland:** What does it do to the 100,000 existing?

**Hon Ms Gigantes:** If there is the effect we expect and hope for under this legislation, having removed the dead hand of zoning, the interfering hand, the long arm of municipal zoning from the activities of home owners who wish to operate an apartment in a house, we will have these owners seeking to have municipal inspection done so that they will be able to say to prospective tenants, "This is a safe apartment, this apartment meets standards," and they will probably get a better rent for the accommodation that they have within their house.

I see that this provides a balance in terms of potential sources of funds to the municipality—increased assessment will do that—and it will provide the municipality with some funds to be able to do the increased inspection which can and should be occurring. It can and should because there are dangerous apartments in houses now, dangerous situations that people are living in, and we hope and expect that this legislation will be a major step forward to improving that situation in Ontario.

1650

**Mr Cordiano:** Minister, I completely reject the notion that this is a feeble effort at ensuring that greater safety

is afforded to those units. I would like to know where in your proposed bill there is any incentive for anyone to take out a building permit and to renovate the unit they now have, that exists illegally. What incentive do they have for doing that, for coming forward and seeking a building permit? I just don't understand how that is much more effective than this, which would introduce the notion of a fine or penalty for failing to register a unit.

There is no—I stand to be corrected—clause in this bill which would have an equal amount of penalty for failing to take out a building permit and in effect legalizing or making safe a unit that now exists that is not safe. To my mind, the fact is that unless you take out a building permit and unless you violate some of the building code requirements, there will not be a penalty assessed against the person or an individual for doing so, or other obstructions that may occur as a result of a fire chief seeking a search warrant or some other individual laying a complaint before a justice of the peace to have the premises searched.

These are inconsistencies, by and large, and to suggest additionally that the taking out of building permits will provide sufficient funds to municipalities to cover off the costs of inspections—perhaps that may provide for the municipalities that see an influx of building permits, but very few, I would add, because I just don't see what incentive an individual who now operates what amounts to an illegal unit would have for taking out a building permit and making their unit a safe place to live, bringing it up to some standard which he or she couldn't care less about, because there's no requirement for that person to do so, no incentive to do so.

**Hon Ms Gigantes:** Could I have Rob Dowler speak to this, please?

**Mr Cordiano:** Sure. I'm not conceding the floor, Mr Chairman; I would like to hear from him.

**The Chair:** I understand, Mr Cordiano.

**Mr Rob Dowler:** Unfortunately, I didn't bring my copy of the Fire Marshals Act with me, but just—

**The Chair:** Just introduce yourself, please.

**Mr Dowler:** Yes. I'm Rob Dowler with the Ministry of Housing staff.

Just going by memory, I believe the penalties that are available under the Fire Marshals Act—

**Mr Cordiano:** Currently.

**Mr Dowler:** —currently would include a maximum fine of in the area of \$10,000. As well, I think there's—again depending on the decision of the judge—an optional jail sentence of, I believe, up to a year on the first offence. Again, I'm going on memory here. I'm not completely certain as to the possibility of charges being laid under the Criminal Code, but I believe there could be a criminal negligence case built, again depending on the specifics of the offence. So those would be in addition.

**Mr Cordiano:** Those remedies currently exist—

**Hon Ms Gigantes:** That's right.

**Mr Cordiano:** —and what happens when no one finds out about these violations of the act?

**Hon Ms Gigantes:** Tenants don't come forward now.



**Mr Cordiano:** They're not coming forward and they won't come forward after because there's no reason for them—you're relying on tenants to come forward?

**Hon Ms Gigantes:** Yes.

**Mr Cordiano:** As we heard from the fire chiefs and their practical experience, the front-line experience they have is that it's those vulnerable people who live in those units who are the least likely to come forward.

**Hon Ms Gigantes:** Those are illegal because of zoning.

**Mr Cordiano:** It's not a question of the fact that they're illegal that they're not coming forward; they simply won't know their rights. They won't know that they can come forward. They don't know that now, because the units are illegal, they could come forward and be able to say that these units are illegal and, quite frankly, don't meet the code.

After the act is passed, sure, it will be interpreted that these units exist as a right and that they have been legalized, but do you honestly believe that those people would not fear being evicted, or do you not believe that the threat they could be evicted would be a disincentive for them to come forward whether Bill 120 passes or not?

**Hon Ms Gigantes:** I think there are lots of tenants who will act on their own behalf in their own safety once the illegal status of zoning has been removed—lots.

**Mr Cordiano:** You're relying on that, and that alone. What I'm saying is that we should at least provide for these amendments which would have a fine imposed on an individual, after the bill is enacted, that would be in addition to the remedies that already exist, and it's stated so right in the act, so that if you fail to register a unit and fail to have these inspections, there's an additional fine on top of what's in the Fire Marshals Act and on top of any building code provisions or any other violations of any other act that would apply in this case.

I'm just suggesting that we strengthen this section through these amendments, that we strengthen the provisions in the bill in order to go one step further than simply relying on tenants who might come forward and who may not come forward.

This is not a total remedy, as I think was stated earlier. This is not the way I would prefer to proceed. But in the absence of my preferential choice, this is a compromise position. This is what we heard from fire chiefs around the province and from municipalities. It is not a perfect solution. It may not lead to every single unit being registered, but there is a greater likelihood and a greater chance that units will be made safe because they're required to be registered with a municipality. The fact that there is a penalty imposed is another disincentive for people to continue to operate unsafe, illegal units. I say "illegal" because even after Bill 120 passes, these units will continue to be unsafe regardless of Bill 120.

There are a few minutes left but I see we're getting close to 5 of the clock. I don't know what the intent here is.

**Mr David Johnson:** I have a question. Madam Minister, in your statements did I hear that you thought there would be an assessment increase as a result of this?

For example, the mayor of North York was here. Let's take his municipality. Could you tell me, once this bill goes through, how the assessment will increase in North York such that it will have extra revenues? Could you tell me how that will work?

**Hon Ms Gigantes:** It will depend on how many people in North York intend to develop an apartment in the house. But an individual house, once it is upgraded to create an apartment in the house, has a revenue-generating capability which will trigger an increase in assessment in most cases.

**Mr David Johnson:** Have you discussed this with—I guess it's the Ministry of Finance now. I presume that's what assessment comes under.

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** I would suggest to you that you are wrong—

**Hon Ms Gigantes:** You can suggest that.

**Mr David Johnson:** —and I would advise you to check with ministry staff. Do the staff have any comment on that? I think what's being said is that if a single-family house is now recognized as having a legitimate basement apartment in it in the city of North York, the assessment will go up on that property. I don't believe it.

**Mr Dowler:** I can't comment on the specifics of the city of North York.

**Mr David Johnson:** That's what I'm asking; that's my question.

**Mr Dowler:** Are you specifically interested in North York?

**Mr David Johnson:** Yes.

**Mr Dowler:** I can't comment on the specifics of North York. I can tell you that we have had meetings with the Ministry of Finance staff in charge of assessment and I can relate to you what their comments were, but I can't give you any information on North York.

**Mr David Johnson:** All right. Give me their general comments then, because I can't understand how that would work. I would ask you to check that and maybe as we go along I'm going to ask that question again. But what are their general comments?

**Mr Dowler:** The general comments of the assessment officials were that there is currently a problem, as I guess you have suggested, with illegal units. The local assessors may or may not know about them. One of the main sources of information in regard to improvements in construction that occur in a local municipality is the building permit record. These illegal units currently are created without the benefit of a building permit, and as a result, if there is a significant increase in market value occurring from the conversion—

**Mr David Johnson:** Now you've caught on to it.

**Mr Dowler:** Okay.

**Mr David Johnson:** We're down to market value. Market value is not in place in North York. Market value is not in place in Metropolitan Toronto.

**Mr Dowler:** That's correct.

**Mr David Johnson:** So there won't be an increase.

There won't be a change. I hope the minister is listening to this.

Indeed in the rest of Ontario, even where there is market value, it would depend on the value of the property increase in the eyes of those who assess, but that may or may not be the case. To assume that the assessment is going to increase is a dubious assumption, particularly in North York. It just wouldn't hold.

**Mr Dowler:** The comment that was made by Finance staff was that in all cases, regardless of whether market value assessment per se is in place in the municipality, the local assessment is based on market value, and that may not be current market value in the case of Metro.

**Mr David Johnson:** It's 1945 market value.

**Mr Dowler:** It could be some subsequent valuation,

as you know, if improvements were undertaken subsequent to the 1945 base. Do you follow me? It would depend on the specifics. The local assessors did indicate that the difference between a legal house with an unfinished basement and a legal house with a legally constructed basement apartment would generate an increase in assessment in most markets. The example that was given by the regional assessment commissioner in Peel was 10% to 15% in that particular instance.

**Mr David Johnson:** I'd like to see that in writing, if I could.

**The Chair:** This concludes this week's clause-by-clause examination of Bill 120. We will in all likelihood continue with this bill once the House resumes sitting.

The committee adjourned at 1703.











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Cooper, Mike (Kitchener-Wilmot ND) for Mr Morrow

Cordiano, Joseph (Lawrence L) for Mr Sorbara

Marland, Margaret (Mississauga South/-Sud PC) for Mr Arnott

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Fletcher

Winninger, David (London South/-Sud ND) for Mr Wessinger

#### **Also taking part / Autres participants et participantes:**

Ministry of Housing:

Gigantes, Hon Evelyn, minister

Dowler, Rob, manager, planning and building policy section

Harcourt, Scott, manager, existing stock policy, housing policy branch

Lyle, Michael, legal counsel, rent control section

**Clerk / Greffier:** Carrozza, Franco

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## Legislative Assembly of Ontario

Third Session, 35th Parliament

## Assemblée législative de l'Ontario

Troisième session, 35<sup>e</sup> législature

# Official Report of Debates (Hansard)

Thursday 7 April 1994

# Journal des débats (Hansard)

Jeudi 7 avril 1994

Standing committee on  
general government

Comité permanent des  
affaires gouvernementales

Residents' Rights Act, 1993

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
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STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Thursday 7 April 1994

Jeudi 7 avril 1994

The committee met at 1540 in room 228.

RESIDENTS' RIGHTS ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS

EN CE QUI CONCERNE

LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** The standing committee on general government will come to order. The purpose of the committee meeting this afternoon is to consider, clause-by-clause, Bill 120, An Act to amend certain statutes concerning residential property.

*Interjections.*

**The Chair:** Could I have order in the room, please. Mrs Marland.

**Mrs Margaret Marland (Mississauga South):** I didn't want to interrupt your introduction, Mr Chair.

**The Chair:** I appreciate that, Mrs Marland.

**Mrs Marland:** I have a very serious problem. I don't know whether the government members have experience in this, but when we in opposition draft amendments, we send them to legislative counsel to be written. We just give them the draft of the intent of an amendment and they draft it so that it's appropriately worded. They will also tell us if the amendment is contrary and wouldn't stand as an amendment, in their opinion.

What has happened to our amendments is rather regrettable, because unfortunately they were misnumbered. I'm waiting for the new ones to come, actually. I thought they were here, but they haven't arrived with the new numbering. Some of them, because of the misnumbering—I thought they were all in section 3. Did we finish up on March 10 in section 3? That's what I have marked in my thing. Anyway, most of our amendments were in section 2.

I have a letter here from the legislative counsel. The person who drafted them is away this week, and I have a letter here from Joanne Gottheil, explaining that she has now provided us with replacement amendments.

So I guess what I'm doing, Mr Chair, through you, is requesting unanimous consent from the committee to present amendments to the committee that are replacing some of our originals which were incorrectly numbered and may in fact apply to some sections that we've already dealt with, which will mean reopening those sections.

Now, I've never had this happen before, and it's not something that, frankly, I have control over.

**The Chair:** Could we just leave this issue?

**Mrs Marland:** Sure.

**The Chair:** It's a very serious issue, but the Chair has some business that has to be looked after, and we'll come back to this in a moment.

**Mrs Marland:** That's fine.

**The Chair:** The first order of business that has to be looked after today is the adoption of the subcommittee report that all members will have before them. I would ask that someone so move.

**Mrs Marland:** What did the subcommittee report say?

**The Chair:** It just authorizes us to sit this afternoon.

**Mr George Mammoliti (Yorkview):** So moved.

**The Chair:** All in favour? Carried.

The minister also had asked to make a brief statement to clarify an issue that had arisen out of the committee hearings in March. The minister may make that statement, and then I think Mrs Marland has a serious problem, and we'll try to deal with that.

**Hon Evelyn Gigantes (Minister of Housing):** As I looked back at Hansard from our committee hearings on March 10, 1994, I realized that I would like to be able to give a better impression of what was happening at that point than Hansard seems to provide.

Members will recall that we were having a very lively discussion about a potential amendment to a proposed amendment, and whether the addition or subtraction of a certain phrase would give clarity or would give confusion to the intent of the motion. At one point, our very good lawyer support from the Ministry of Housing, Michael Lyle, gave an interpretation of the addition or subtraction, I don't recall which at the moment, and I said jokingly, "I don't believe you." We all laughed and proceeded from there. I had intended to be humorous; certainly not disrespectful. So I wish to put on the record that I meant no disrespect, and as all members of the committee do, I very much appreciate the excellent legal support that we get as we do our work here.

**Mr David Johnson (Don Mills):** The minister has indicated that we all laughed. Can I just beg leave to take difference with that. All of us didn't laugh at that. Some of us may have laughed, but all of us did not laugh.

**Hon Ms Gigantes:** I'm sorry. I thought we all had.

**The Chair:** I'm certain that Hansard cannot determine that.

**Hon Ms Gigantes:** We could have taken a laugh vote, a recorded laugh.

**Mr Bernard Grandmaître (Ottawa East):** I was shaking my head.

**Mr Drummond White (Durham Centre):** You always shake your head when you laugh.

**Hon Ms Gigantes:** I heard you giggle, Bernard.

**The Chair:** I think Mrs Marland's concerns can be accommodated. The clerk is speaking to Mrs Marland at the moment, and I believe that procedurally we can find a way to accommodate Mrs Marland's technical difficulty, which of course was not of her own volition. Would the clerk like to explain how we can deal with Mrs Marland's amendments?

**Mrs Marland:** I should explain that the author of my letter is Joanne Gottheil. She is here today so she can explain her letter.

**Clerk of the Committee (Mr Franco Carrozza):** My understanding, Mrs Marland, is that the amendments we are talking about, if you can look at your yellow package—the identification number is at the top right-hand corner—are 13, 14, 15, 16 and 17. You will note that they all have section 3.1. In reality, it should be section 2.1, because they are on the same section, which would be section 89, which is the same section as in amendment 7. So it's simply that when Mrs Marland introduces the amendment, if she were to say section 2.1, it would be just fine.

**Mrs Marland:** So it's 13, 14, 15 and 16.

**Clerk of the Committee:** And 17.

**Mrs Marland:** And 17. It's five then.

**Mr Grandmaître:** Amendment number 13.

**Clerk of the Committee:** Yes, 13 will come after number 7.

**Mr Grandmaître:** After 7. Is this—

**Clerk of the Committee:** Yes, because you will note that number 7 proposes to request to open 2.3 of section 89. Mrs Marland's amendment is section 3.1 of section 89. So they can follow one, follow the other. Okay?

**Mr Grandmaître:** Okay. We're on track.

**Clerk of the Committee:** You will note that amendment number 8 proposes to open section 91, and number 14 also is 91. So you could put those two together. Again, number 9 and number 15 propose to open section 106.

**Mr Grandmaître:** Yes. It will be 15 and 16.

**Clerk of the Committee:** Number 9 and 15, number 10 and 16, and then we have number 17 and number 11. I'll keep the score for everybody.

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**The Chair:** When we completed our clause-by-clause review during March, we were dealing with an amendment moved by Mr Cordiano to section 2.2. We had divided that section, which members would see as sections 81.1 and 81.2. We had carried the first part, and now we are dealing with section 81.2. Maybe Mr Cordiano would like to refresh our memory on this section.

**Mr Joseph Cordiano (Lawrence):** I certainly would like to propose, with the unanimous consent of the members of the committee, an amendment to that section to rectify a problem that has since come to light. I believe that we've discussed this with the minister and we have some agreement on this amendment that I would propose.

**The Chair:** You're talking about section 81.1, the section that was previously carried.

**Mr Cordiano:** Right, and I would like to reopen that section because there is an omission or an oversight, if you will, the intended consequence of which is not going to be achieved. I have to open this section up again because, if I may, just to explain it—

**Interjections:** Agreed.

**Mr Cordiano:** Okay? Thank you.

**The Chair:** Wait a minute, Mr Cordiano, we'll stand down section 81.2. Can I have unanimous consent? Agreed. We'll stand down section 81.2 and we'll now deal with the agreement we now have to deal with section 81.1.

**Mr Cordiano:** Essentially, this proposed amendment to the amendment would make clear the fact that this section would only apply, or the agreements—

**The Chair:** Do you want to make the motion?

**Mr Cordiano:** Okay, let me read into the record the motion.

Section 2.2: I move that subsection 81.1(1) of the act, as set out in section 2.2 of the bill, be amended by inserting after "agreement" where it first appears "with respect to residential premises to be occupied by a person in the premises for the purpose of receiving care services, whether or not receiving the services is the primary purpose of the occupancy."

I have copies that we can distribute to the members.

**The Chair:** That would be appreciated. The clerk will do that for you if you'd like to explain the reason for the amendment.

**Mr Cordiano:** An explanation?

**The Chair:** Yes.

**Mr Cordiano:** The intent of the amendment is clearly to allow only those residents in care homes who would be required to come up with this agreement with the operators of the home—to restrict this or to make it so that this agreement would only apply in those instances where care is provided, so that it would not apply to other tenants in other situations. That was the intention of my original amendment, and there is some question about whether that would be accomplished by the original amendment alone, standing as it would without this further clarification.

**The Chair:** Further questions, comments?

**Mr David Johnson:** Just to say that it makes it abundantly clear who the tenancy agreement and the clause applies to. I'm just trying to determine, without the amendment, whether that would be the case or not, but I suppose it's better to be safe than sorry. So it sounds like a good amendment.



**The Chair:** Questions or comments? If not, shall Mr Cordiano's amendment to section 2.2 carry? Carried.

We'll now deal with the stood-down section, section 81.2. You have previously moved this section, Mr Cordiano, so you can just refresh our memory as to the reason that you're putting this amendment.

**Mr Cordiano:** Just to bring myself up to speed, we're on the "right to consult," subsection 81.1(1)?

**The Chair:** "Accessory apartment registration."

**Mr Cordiano:** I'm sorry. Yes, we did pass that earlier section, correct?

**The Chair:** Yes.

**Mr Cordiano:** I just wanted to make sure that we did pass the previous section.

**The Chair:** What we did was amend sections we had passed and had been part of the bill.

**Mr Cordiano:** I'm getting it together here. Did I move this? I'm sorry. I did move this.

**The Chair:** Yes.

**Mr Cordiano:** Okay, fine. So some debate on this, accessory apartment registrations. It has been our view throughout these proceedings that we don't believe—

**Mr Stephen Owens (Scarborough Centre):** On a point of order, Chair: Sorry to interrupt you, Joe, but there's this very irritating buzzing. I can hardly hear Joe. Is that something that's going on in the construction?

**Clerk of the Committee:** There's nothing we can do about it.

**Mr Grandmaitre:** It's the heating system.

**The Chair:** We are attempting to deal with that, Mr Owens. We are having the same difficulty you are.

**Mr Owens:** If you could speak up, Joe. I can't catch you over here.

**Mr Cordiano:** I will try to do that.

*Interjections.*

**Mrs Marland:** Can we get that on the record?

**The Chair:** No. Order. We'll have to be exceptionally quiet while we listen to Mr Cordiano.

**Mr Gary Wilson (Kingston and The Islands):** Now you know how to get Steve's attention.

**Mr Cordiano:** We are somewhat dysfunctional this afternoon, I think.

Accessory apartment registration: What are we dealing with on this? I'm sorry. Actually, this is the heart of the issue as far as I'm concerned with regard to Bill 120, in that it speaks to the greatest concern that we have in an effort to make accessory apartments safe places to live.

We believe that it's absolutely essential to have this registration process in place. I've spoken about this throughout the hearings, and we heard from AMO, we've heard from fire chiefs across the province. Today in the Legislature my leader brought up the issue that was dealt with in the inquiry that was recently held in the tragedy in Mississauga. The recommendations of that inquiry suggest that there be a registration system.

Quite frankly, I have heard the minister's arguments about registering: There is no real need to register these

units because once you make them legal, then at that point, by some magical formula, people will come forward and make their apartments conform to codes, both fire and building, and other requirements that are essential to make these units safe. I just don't believe that will happen. The minister has suggested that by requiring these units to be registered, it still won't happen.

What I would say to the minister is that both efforts are inadequate, but ours is a better approach. It moves the yardsticks a little further than what you've suggested. In the absence of a perfect solution, requiring units to be registered would, at the very least, give rise to everyone who lives in a unit or everyone who lives in a neighbourhood where there are units to be able to then ascertain whether in fact these units have been registered, and perhaps in one phone call determine that a unit has been registered and therefore is required to have an inspection, that the municipality is aware that the unit exists.

In the other scenario that you've proposed, Minister, where it's not required that the unit be registered, you can have a tenant living in that unit, the tenant may not ever be aware of what is the code, what is the standard, that in fact he's living in an unsafe unit. That is the real tragedy of all this.

You're requiring in your scenario that tenants be as knowledgeable, or you're assuming that they're knowledgeable, about what is safe and what is not. I would argue with you, Minister, that this is not the case, that most people in fact are not aware of what is required for a unit to be safe. For God's sake, people aren't even aware that they could go and buy a smoke detector for \$10 or \$12 and install it themselves.

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These are the kinds of stories we've heard from fire chiefs across the province. We've heard that from other people, inspectors etc, where there are homes that haven't ever been inspected for many, many years with regard to fire safety where there are still not smoke detectors.

We've had recent tragedies. I recall one, I believe it was in your part of the world, Minister, that terrible, terrible tragedy where those children were killed in a fire, where there was no smoke detector in the home. I mean, these were children, and no one bothered to install a simple smoke detection device, which costs around \$12 or \$14. Had that been in place, their lives would have been saved.

To expect that the tenants of basement apartments are going to be knowledgeable that their units are unsafe and that they need to be made safe and that they then will turn their attention somehow, call the fire chief, call the local municipality, call someone, to say, "Hey, this unit is not safe," or "How can I find out that this unit is safe?"—you see, that's the point. I just cannot see how this is not sensible to do. At the very least someone would be able to call a municipality to know if that unit would be registered. If that unit hasn't been registered, then the chances of it having been inspected are next to nil. The chances that this unit would be safe are not very good either.

If you had it registered, then by the efforts that would

have to be made to have an inspection, which is what we call for in this amendment—the requirement for an inspection follows as part of this amendment—you would get that action initiated because the municipality would be made aware of that unit. The municipality would know it's there, then would in sequence prepare for these inspections, and these inspections could take place, I believe, over a reasonable amount of time.

Again, we provide for a fee to be recovered by the municipalities on a cost-recovery basis so that this entire mechanism would proceed with some order. One of the excuses for not proceeding would certainly not be the funding mechanism by which inspections would then have to be paid for, because a fee would cover off those costs. I think it's absolutely critical.

The last point, Minister, is with regard to a penalty. I don't recall that there is anywhere in the bill any direct mention of a fine for not bringing units up to standard. There are fines for violating the fire code, there are fines for violating building codes, but there is no direct fine for not bringing these units up to standard, putting the onus on the owner of the unit.

I just think the arguments that have been made—and with all due respect, Minister, I just think it's not an issue that should be argued over with respect to partisan position. It is absolutely critical that we move those yardsticks forward, and as I said earlier in my remarks, both approaches are inadequate. Both do not secure 100% that in fact all units will be made safe. Probably nothing could do that, but it's not even close to being ideal. I just think that if we move forward with this registration system, then at the very least it will work much better than what's being proposed in the bill currently.

I've been told, Minister, as well, that in fact this problem may be at some point dealt with in an indirect fashion, and probably dealt with over the issue of insurance. I'm almost tempted at this point to deal with this matter in a different way. I was tempted to bring forward an amendment that would somehow recognize the need to have an insurance document that would state clearly that your unit was certified and insurable and was insured, in fact.

Again, that's probably more a private sector matter that will be dealt with by insurance companies on their own forms, so that speaks to the need for an inspection to be done, the need for the unit to be up to standard.

Insurance companies will probably require, as a result of Bill 120, that an owner disclose that he or she has a basement unit or has an accessory apartment in their home, and that in fact it meets all of the necessary codes and safety requirements. That will probably be required in, as I say, an application that's made for insurance and the disclosure will have to be made, and if it's not made then you would violate the terms of the contract and you would be uninsured.

That may be how it's dealt with in the end, but I think to wait for that is to put people in jeopardy in the interim. Furthermore, I still believe that to just expect that would cover all of our problems is not something I would support. So I go back to this notion that we should register these units.

**The Chair:** I have Mr White, Mr Owens, Ms Gigantes and Mrs Marland.

**Mr White:** I would like to support my friend Mr Cordiano's amendment. There's an awful lot of excellent merit to his point. Unfortunately, as I read the amendment, it makes it very, very difficult to support it because, frankly, it sets out an unnecessary obligation on the part of the municipality.

It says that the municipality should be getting into offering some sort of a rent registry office, something which it doesn't currently do. It says, "No person shall rent out an accessory apartment unless the apartment is registered with the municipality...."

My friends in the municipal field, in Ms Marland's municipality etc, are constantly complaining about the number of duties and obligations which the provincial government is thrusting upon their shoulders, and here we have Mr Cordiano suggesting that they have to have some sort of a rent registry.

Actually, it doesn't suggest they have to; it says that no one shall rent out an apartment unless there is one present in that municipality, but the municipality doesn't have to offer it. That's a bit of a catch-22.

If I were to convert my home into a home with an accessory apartment, in order for me to rent out that apartment my municipality would have to have a registry, but it doesn't have a registry. That's the catch-22. The municipality is not obligated to have this registry but I'm obligated to register my apartment.

Obviously, you can't have it both ways. If the obligation's on the municipality, it should be also upon the owner of that dwelling. If it's on the owner of the dwelling, it should also be on the municipality. There should either be both a "shall" here and a "shall" there or a "may" here and "may" there. There should be an equivalent level of obligation but there isn't in this amendment.

**Mr Grandmaître:** Do you want to bring in an amendment?

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**Mr White:** No, this is not an equivalent issue. It creates an added barrier, an unfortunate and unnecessary barrier. For those reasons, I have difficulty supporting Mr Cordiano. I think that his concerns are very real and very genuine, but unfortunately his amendment is written in such a way that it cannot be supported by anyone who wishes to deal with these issues. We need to have safe accommodations. We need to be sure that those accommodations are adequate, that the fire alarms are present, that the adequate entrances and entryways are there. That is one of the issues which this bill deals with and which the Ministry of Housing is dealing with. But this amendment does not facilitate that.

I would suggest that if we had something which suggested a voluntary registration—why, we have that already in my neck of the woods, where people who have illegal, non-conforming basement apartments have those apartments registered on a voluntary basis for potential tenants. Of course, you could have a situation where that registration would reflect upon the adequacy of the health



and safety of those accommodations. But that is a voluntary arrangement. This is a mandatory arrangement.

I would suggest that a voluntary arrangement is something which can happen outside of the law. Our communities in Ontario do not want an additional obligation. They don't want to get into a situation where they are acting as some sort of real estate agent for their communities. What they want is to ensure that accommodations and their citizens are safe. They don't want to act as realtors. I'm sure that if they were forced to act as realtors by an amendment such as Mr Cordiano suggests, they would balk, they would resist, they would be fiercely opposed to this bill. For those reasons, I would want to suggest that Mr Cordiano might want to take this back and rewrite it.

**Mr Owens:** I want to say that I agree with my colleague's comments with respect to the motion put forward by Mr Cordiano.

I do want to add a couple of things, however, and I say this with great respect, Joe, that in terms of the kinds of politics that are being played around the deaths of children and a mum, I feel very uncomfortable about this, in raising the issue of a registry in conjunction with fatalities. I think that you have to admit, and I will admit, that whether we have a registry or not, those people are not coming back. There are some very broken-up lives as a result of these fires and I think that in terms of raising this as an issue, it gives me some discomfort as a human being, quite frankly, to be doing this.

In terms of the registry issue, the minister and I have gone around the block a couple of times on that as well, and the issue of safety is not one that's real. In terms of a registry—I don't know what part of the city you live in, but I can tell you, in the city of Scarborough, trying to get property standards inspectors out to inspect current private rental apartment buildings is a major, major problem. So if you all of a sudden, as my colleague from Durham indicated, turn the city into a rental agent or a landlord on behalf of the community, if it's your view that by simply establishing a registry, property standards inspectors are all of a sudden going to be out there and saving people's lives, it's just not on.

**Mr Cordiano:** On a point of order, Mr Chair: I don't want to interrupt the member's flow of thought. I wasn't paying close attention to the member but I hope he wasn't—

**The Chair:** No, that's not a point of order, Mr Cordiano.

**Mr Cordiano:** No, this is a point of order. I hope he wasn't imputing motives about what I had said earlier because what I was saying was being distorted by the member and I think it was out of order for him to do that.

**The Chair:** I see nothing out of order.

**Mr Owens:** In terms of the issue with respect to whether tenants know or will not know, I can assure the member that from the perspective of the government, it's not our intention to launch a fairly significant piece of residents' rights legislation into the community without doing any kind of education program. That's not only in

English but in other languages as well. I think if you recall the advertisements and the educational material that came out around the Rent Control Act, it was quite extensive, quite easy to understand and I don't suspect—and the minister I'm sure will confirm that my view is correct—that we're going to launch a major piece of legislation without going out to educate the tenants.

So suffice it to say that I will not be supporting the motion and my colleagues will not be supporting the motion.

**The Chair:** I would ask members just to keep the private conversations to a minimum or outside. It's very difficult to hear in this room.

**Hon Ms Gigantes:** This is an important area of discussion in this bill, as Mr Cordiano has indicated. I think it deserves some thorough discussion by members of the committee. What the fear is, I believe, on the part of Mr Cordiano, is that there won't be any penalty for having an apartment which is illegal by nature of poor standards: It is illegal because it doesn't meet the fire code regulations; it is illegal because it doesn't meet the building code regulations. That's the concern that's here. That's everyone's concern. We're agreed on that.

Now, how we deal with that concern in a realistic way without duplicating efforts and without incurring unnecessary costs and arriving at the best possible solution is the question. What is being contended here is that for existing apartments which do not meet fire code standards or building code standards, the proposal of a registry is going to present a deterrent to property owners continuing with an apartment with illegal standards. In other words, you're suggesting that we have a registry in order that people know that unless they are under the registry they can automatically be fined, and to be under the registry they have to meet the standards.

**Mr Cordiano:** No, I'm not saying that.

**Hon Ms Gigantes:** Excuse me; in good faith, I'm trying to understand what you're saying. You're saying that each apartment, to be legal, must be registered. We move away from the question of illegality because of zoning; we accept that. Then your concern and your focus is around health and safety.

**Mr Cordiano:** Right.

**Hon Ms Gigantes:** In order to achieve the maximum health and safety, you're suggesting a system in which we have a registry, and anyone who is operating an apartment which is not registered—it has to meet standards in order to be registered—will be fined. Correct?

**Mr Cordiano:** You won't zap them that way. I think that it would be reasonable—

**Hon Ms Gigantes:** How would you do it, then? I'm interested in hearing this.

*Interjections.*

**Mr Cordiano:** Just a minute. If I may—

**The Chair:** The minister has asked Mr Cordiano a question. Mr Cordiano can answer.

**Mr Cordiano:** If I may, just to clarify, it was our thought that you would, by regulation, if you would agree with this, allow for a period of transition for these units

to become registered and for them to be brought up to standard so that you wouldn't just go out and fine those that—obviously there would have to be a period of transition. What that might be I've left open for regulations to determine, but I think it would be fair to have this period of transition where units would be brought up to standard, where people would be given a reasonable amount of time to make preparations for bringing these up to standard and for getting inspections and for becoming registered.

**Hon Ms Gigantes:** Suppose we accept that, can I continue the thought? If, on the other hand, we have a scheme, which is the one presented in this legislation, in which an apartment may become legal according to zoning but it is not legal until it meets the standards which are attached to this bill in terms of the fire code, the building code—

**Mr Cordiano:** Right.

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**Hon Ms Gigantes:** So it sits there. It's not illegal because of zoning but it's not legal until it meets those standards. Then there are several ways in which it can be forcibly, if you want, brought up to standard. Let me suggest, they're very much like the ways that a registry would operate. My concern with a registry I'll speak to again in a moment. It would be a case where either the property owner would seek to be in a situation where the apartment is a legal one, and might be doing so for reasons of insurance or guilt or confessions to priests or I don't know what, but decides that the apartment was going to be legal in terms of its health and safety and in terms of the building code and the fire code.

So the property owner could initiate a request for an inspection, the tenant may initiate a request for an inspection or somebody else may. Under any kind of situation in Bill 120, it is perfectly reasonable for somebody to initiate it. It could be an official of the city, it could be an official of the fire department or it could be a neighbour who calls up and says: "I think somebody's living in an unsafe condition. I'd like you to take a look at it and see if you think it might be in an unsafe condition." There are many ways.

**Mr Cordiano:** They can do that now.

**Hon Ms Gigantes:** It's the same process—let me put it to you—in effect that we'd go through if there were a registry, except with a registry what we have is a situation where we are setting up an extra layer of bureaucracy. We're saying to the municipality, "You have to set up a registry and run it, operate it, charge people to be on the registry." Certainly, if there are going to be inspections, then the assessment may be affected over time, so the municipality can pick up costs that way. But to say you're going to have to come and get registered, I don't think in reality this is going to improve the situation, because the same kinds of spurs to action will exist in one or the other form.

You're concerned that there is no penalty that is obviously identified in the bill for operating an apartment in an illegal manner, if I can put it that way: not meeting code, not meeting the fire requirements. Could I refer you

first of all to subsection 38(3) of the bill. What we're dealing with here is the Planning Act and the application of the Planning Act and identifying that when an official is carrying out the duty of inspection, "No person shall obstruct"—

**Mr Cordiano:** Did you say 38?

**Hon Ms Gigantes:** Subsection 38(3). It's on page 23 of the bill.

**Mr Cordiano:** Yes, okay: "No person shall obstruct...an officer or person acting under..."

**Hon Ms Gigantes:** Then I refer you to a piece of paper which you don't have and which we can ask the clerk to make a copy of, which is the Fire Marshals Act, which has the attached offence section.

What we haven't done in Bill 120 is duplicate every section of each act which is going to apply. What we've done is we've changed the Planning Act and we've changed the operations within the Planning Act in terms of inspections and requirements before an inspection can take place. We've loosened those up. We also have application of the fire marshal's code and direct regulations developed for apartments in houses. In the Fire Marshals Act, subsection 18(18) reads:

"Every person who fails to comply with an order made under subsection (2), (7), (12) or (17) is guilty of an offence and on conviction is liable to a fine of not more than \$10,000 for every day during which the default continues, and the imposition or payment of the fine does not relieve the person from complying with the order."

That's in effect the penalty attached to the draft fire code regulations which are attached to this bill. They're not incorporated within the bill, but they swing into action with this bill, and the penalties are the penalties under the fire code act. This is direct, though; this is not indirect.

**Mr Cordiano:** That's fine. I would grant that if the penalty is dealt with—and I suspected it was; I didn't have it before me. There is some measure of consideration for a penalty, obviously, in that fashion, for violations of the fire code. There is also the question of violations of the building code.

**Hon Ms Gigantes:** Yes, and if you look to subsection 38(4), we're talking about revisions to the Planning Act. Please help, James.

**Mr James Douglas:** James Douglas, Ministry of Housing. Just to clarify, subsection 38(4) makes obstructing a property standards officer an offence, and the fine which is applied to that is the fine which applies currently to property standards offences. Specifically, there can be a penalty upon conviction of \$2,000 for the first offence and not more than \$10,000 for a subsequent offence.

**Mr Cordiano:** I understand that. That is something I had contemplated you were doing, and I just didn't have it with me today. That still does not preclude this penalty which, if in fact we did have a registry system—it goes back to the registry system. This penalty is attached in that section for violating that first step, which is to register with the municipality. You may not agree with it, but it's still logical to have this penalty in place there,



which would be an additional penalty for violating that first section.

**Hon Ms Gigantes:** If I could, on that question, I think we've got an agreement now—members can see how the building code amendments that affect apartments in houses and the fire code regulations, which are drafted to deal with apartments in houses for the first time, which are associated with this legislation, have the effect of making sure that there is a penalty attached for operating an apartment which is not legal in so far as health and safety standards are concerned.

**Mr Cordiano:** And that is the case for every other unit in the province.

**Hon Ms Gigantes:** In addition to that, the member is suggesting by way of his amendment that he would like to see a registry, and that there would be an additional kind of penalty, an additional superstructure of bureaucracy, an additional requirement on operators of apartments in houses, to register. I don't see that there is anything about what he is proposing that will induce better compliance, because there are already penalties attached to running an apartment which does not meet the legal requirements of the fire code and the building code.

What this is doing is putting in an extra kind of penalty for operating a below-standard apartment, when the apartment is in a house, that doesn't exist for any other kind of apartment. It is that singling out of apartments in houses and that special kind of hoop and threat attached to the operating of an apartment in a house and the extra bureaucracy and cost involved, both for the operator and for the municipality, which he's calling upon to run this registry, that I object to.

On many fronts, I object to this unnecessary addition which he is proposing.

**Mr Cordiano:** If I may respond to that—

**The Chair:** No. I'll put you on the list. She didn't ask you a question, Mr Cordiano. Mrs Marland.

**Mrs Marland:** Just a point of business, Mr Chairman, before I speak to this motion: something I omitted to do at the beginning of the meeting when I was addressing the mixup about our Progressive Conservative amendments. I also want to bring to the attention that there is an amendment that was attributed to us under section 28 which is baffling us tremendously, because—

**The Chair:** Mrs Marland, I think we should deal with the section we're dealing with and then we can chat about—

**Mrs Marland:** But it's important.

1630

**The Chair:** I understand the seriousness and the importance, but I think we could deal with that between sections that would be a more appropriate forum for that clarification.

**Mrs Marland:** I just want to give notice, because the section 28 amendment attributed to us is not our amendment. It deals with the application of the Rental Housing Protection Act, and I don't want there to be any misunderstanding, because this amendment is totally contrary to our position. We're actually very curious to know

where it came from.

The best way to speak to the amendment is to deal with the comments my revered friend Mr Owens made about, why is Mr Cordiano talking about fires and deaths? The interesting thing is that in this whole debate, and all our opposition and all our concern about Bill 120, and all our questions in the House by both the official opposition and ourselves to the minister, we've missed one important point.

The important point we've missed is that we stand up and we ask the questions about Bill 120 and our concerns about it, and we've asked them over and over again. We've attributed our concerns—in fairness, both parties have—to the recommendations of the coroner's inquest which took place in Mississauga after the New Year's Day fatalities. Always the minister comes back with—I'm paraphrasing you, but what you say essentially is, "We won't have any remedy until these apartments are legal."

The one point we have missed totally and which I'm very concerned about is that, as I've said in the House, we've had a set of draft regulations which will amend the fire code to address basement apartments. Those have been available now for a year and they haven't been applied, I guess. I don't what the technical word is for changing regulations in the ministry; they're not proclaimed, obviously, like a bill. They're not implemented. We always get this answer: "We can't implement anything until we get the passage of the bill, because until we get the passage of the bill we do not have legal apartments."

The point we've missed totally is that we do have legal apartments in the city of Toronto. I suppose we should say we're fortunate that the fires haven't been in legal apartments. Those fatalities Mr Cordiano and I have referred to on a number of occasions have not been in legal apartments in the city of Toronto.

I really have to wonder how the minister could sit on new fire code regulations, albeit it's not her ministry that has to enact those; it is the responsibility of the Ontario fire marshal. But her ministry has had input in it and she has defended the fact that those new fire code regulation changes have not been implemented because they're waiting for Bill 120. I have a real concern. I don't know how many legal apartments there are in the city of Toronto, but they do exist in Toronto, and those people have not been protected for a whole year when they could have been.

If the minister and all the government members really want to look at this objectively and really want to get away from thinking, "Of course it's a government bill, and of course the automatic thing is that opposition is opposed to it," then do that. Remove yourselves, and we can remove ourselves from our opposition, and then go the next step and see who else is opposed to it.

When you look at who is opposed to 120 as it stands and look at the recommendations which address the question of this motion on the floor now, which is the registering of these units, then you come to people who know far more about this subject, I say with respect, than the minister or any one of us sitting as members of this committee and, I would suggest, any of the bureaucrats

in the ministry as well. That would be someone who represented the Ontario Association of Fire Chiefs at the inquest into the two fatalities in Mississauga.

In the evidence that Chief Hare gave to that inquest, he says, and I quote: "In early 1993 the Task Group on Accessory Apartments was convened by the Ministry of the Solicitor General, office of the fire marshal. This task group was comprised of representatives from government, industry, property owners and tenant groups." Thank the good Lord it didn't include politicians. "Its task was to develop a set of regulations for accessory apartments that could be included in part IX of the fire code. The group reviewed the provisions of the building code and the guidelines that had been developed by the office of the fire marshal to assist local fire departments in setting standards for fire safety for accessory apartments. I had the privilege of serving on the task group as a representative of the Ontario Association of Fire Chiefs. By April 1993 the group had prepared a draft regulation for inclusion in part IX of the code. A copy of the most recent draft is included in your information package." At that point, he's addressing the jury at this inquest.

He goes on to say, "At this time I do not know the status of this document, other than to note that Bill 120 does not mention it and does not deal with any changes or improvements to the Fire Marshals Act or fire code regulations." And he continues in his evidence with a lot of powerful argument.

What I am saying to this committee is that if you don't want to listen to the opposition parties, I can understand that, but I plead with you to listen to someone who is representing the Ontario Association of Fire Chiefs and was invited to do that by the Ministry of the Solicitor General.

He goes on with his concerns talking about registering apartments, which is why this motion is on the floor. In referring to the fire code regulations, which are part of this motion for a registry, he says: "These draft regulations will provide an increased level of safety for ambulatory residents, but do not address the needs of the elderly, children, the handicapped or the impaired. Unfortunately, many of the occupants of accessory accommodation are in these high-risk groups." That is not addressed in this bill.

1640

What he says is, "In addition to the need for improved powers of entry, property owners must be required to register their accessory apartments with the local municipality." He doesn't say "should." He doesn't say, "It would be a good idea." He says "must."

**Mr Gordon Mills (Durham East):** Who said that?

**Mrs Marland:** Chief Cyril Hare. Obviously, if he's saying that, he must be basing it on some very powerful evidence. He happens to have been with the Mississauga fire department for something close to 25 years, I think, or more. But he's not speaking on behalf of Chief Cyril Hare and he's not speaking on behalf of the Mississauga fire department; he's speaking on behalf of every one of your fire chiefs. Every one of you in your riding has a fire chief, and that fire chief has said that there must be

a registry. So I can't understand why there is such a problem.

It's very funny, humorous—not funny peculiar, but funny ha-ha—that the minister is so concerned about setting up a bureaucracy if you have to have a registry. If Bill 120 is going to mean anything, Madam Minister, it's going to mean changes in how basement apartments or accessory apartments can be constructed. When you deal with new ones, if they are large enough, they will need a building permit. They may not all need a building permit: There may be a partially built basement space that doesn't require a building permit to finish it off because there isn't that much work to do, so there may be new basement apartments that are created that you won't know about or the municipality won't know about. But if you want any part of Bill 120 to work—and I say again, I'm not in favour of basement apartments, but if you want basement apartments and you want to protect people and you want them to have the right for the inspections to prove they're protected, you are in favour of setting up a bureaucracy anyway. You want those apartments to be inspected.

Of course there would be plumbing and electrical inspections, but apart from the plumbing and electrical inspections, the fire inspections alone in Mississauga would equal 87 person-years. You're going to legalize basement apartments. Well, there's a cost to that: electrical inspections, plumbing inspections, building code inspections and, most importantly of all, fire code inspections. So we already have to do these inspections—

**Hon Ms Gigantes:** Would you be interested in hearing from ministry staff about a couple of the points you've raised?

**Mrs Marland:** Certainly, when I've finished.

We've got this bureaucracy now that has to do these inspections, and as Chief Hare says, it's 87 person-years alone for 10,000 unregistered apartments in the city of Mississauga. How much more work is it if all of those inspections are being done to register them? I just don't understand this. If you're going to have to have a name and an address, a property owner, a tenant's name—all that information has to be registered anyway for an inspection to be done. How much more difficult is it to decide to have a formal registry, which is what the motion on the floor is about?

When you look at the final recommendations of the coroner's inquest along with their concerns—by the way, I should tell you that the city of Mississauga has passed a resolution to ask the province to implement the recommendations of the coroner's inquest. Included in those recommendations are, of course, that Bill 20 provide for right of entry by municipal fire prevention officers without the need of a search warrant to ensure that the unit complies with minimum fire code safety standards.

But the next one is the one that's pertinent to this motion, that:

"Owners of basement apartments be required to register with the municipality.

"All buildings containing basement apartments must have distinct street numbers to ensure that emergency



service staff know where a basement apartment exists;

"Municipalities be allowed to maintain the single-family zoning based on the limited fixed services such as water, sewage, hydro, parking etc;

"The fire code be amended to include fire safety regulations for accessory apartments; and

"All Ontario municipalities should adopt a uniform smoke detection bylaw."

The reason the registry has to be part of it is that we have had four deaths in Mississauga and we have had a requirement in Mississauga for smoke detection equipment, smoke alarms.

Your point is that you want Bill 120 as it is, without Mr Cordiano's amendments and without my amendments. You want it to go through, because you want to make these basement apartments legal because you want to make them safe. I'm saying to you that it won't work without the registry so that the municipality, ie, the fire department, knows where they are and they're inspected. They can't be inspected if the owner declines the entry.

That other issue of right of entry I will get into at another time in terms of the right of entry without a search warrant. In Mississauga, as I say, we've had these four tragic deaths and we already have a law that requires smoke alarms. My fire chief and his firefighters cannot knock on a door of a residence in Mississauga and say, "I want to see if you've got a smoke alarm." That's a requirement for every residential unit of any size in any kind of dwelling in Mississauga, but if that owner says to the firefighter, "I'm sorry, you're not coming in my house," then the fire department has to go and request a search warrant.

As Chief Hare told the inquest, they cannot get a search warrant when obtaining—and I read again from his evidence to the inquest: "When obtaining a search warrant, the informant must have 'reasonable and probable grounds to believe that an offence has taken place.' Unless you have been in the building you will have no grounds to claim that there is a violation of any regulation. It has been our experience that a justice of the peace will not grant a search warrant without substantial evidence. In 1993 in Mississauga we were denied a search warrant even though we had an affidavit from a person who had been in a residential premises that we wanted to inspect. The Fire Marshals Act presently provides the fire service with rights of entry; however, they are difficult to use in single-family dwellings. The fire department can charge the property owner with obstruction under the act, but the time and expense required to carry out the prosecution will be an added load for municipalities."

Now you have brought to our attention that section in the bill, subsection 38(3), where it says, "No person shall obstruct or attempt to obstruct an officer or a person acting under the officer's instructions in the exercise of a power under this section." But the thing is, if they do, if they choose to do it, you have to go the legal route through the courts to get that entry.

On the one hand, you want all these things to ensure that basement apartments exist and to ensure that those

tenants are protected and are safe and you want all these inspections done, but you're not willing to accept that they should be registered. The registry part is such a little part of the whole bureaucracy that it's going to cost to implement Bill 120 anyway.

1650

I just don't understand. You don't care about the municipalities in the first place, because AMO is totally opposed to this bill and you've ignored AMO, and now suddenly you're saying: "Oh, well, we don't want another bureaucracy. It's going to take too much for the municipalities to administer it." You can't say both those things. You can't say on the one hand, "We don't want to extend the bureaucracy," and then on the other hand say to all the municipalities, "But thou shalt do this, this and this."

Why are you suddenly so worried about the registry? They're not suggesting they register with the province; they're suggesting they register with the municipality. The motion on the floor is very clear. It says, "No person shall rent out an accessory apartment unless the apartment is registered with the municipality in which the apartment is situated." It isn't even anything to do with you; it's to do with the municipality.

**Mr Cordiano:** They're the ones that want it.

**Mrs Marland:** Through AMO, they are the ones who want it, but more importantly, it's the fire chiefs who want it. It's the fire chiefs who go with their staff into those basement apartments. In my case in Mississauga, the terrible irony is that in both those fatalities, with the two mothers and the two children, the same fire crew went to both those fires. Imagine the trauma for them, to have lost one mother and child and then the same fire crew goes back within two months to another basement fire and here's another mother and child. And these firefighters are powerless to get in there. If somebody phoned and said, "We think there are x apartments on this street," they have no power to go in and inspect whether they're there and what condition they're in.

You can set up all the requirements you want under Bill 120. It's going to amount to a hill of beans without the inspection and without the registry, and that's why this motion is so critical to this bill.

**Hon Ms Gigantes:** Ms Marland indicated she'd be interested in hearing comments by Mr Douglas from the ministry point of view on some of the points she had raised.

**Mr Douglas:** First of all, I would like to clarify why the government did not proceed with implementing the fire code amendments at this time and decided to wait until Bill 120 was approved. The Ministry of the Solicitor General and corrections were concerned that having the fire code standards in place and well publicized would give the occupants of illegal units the impression that meeting these standards was possible. However, that was not the case.

If somebody in an illegal unit chose to request a fire inspection, the fire inspector would come, and the fire inspector could very well issue an order. The municipality would be obliged to issue a building permit based upon that order. However, the existence of the unit as an

illegal unit would become known to the municipality, and the municipality, subsequent to the completion of the construction work, could come in and charge the owner for having an illegal second unit.

**Hon Ms Gigantes:** Illegal because of zoning.

**Mr Douglas:** Exactly. The danger was that people would be under the misconception that meeting the fire code standards would be sufficient to have a legal unit.

**Mrs Marland:** Excuse me, Mr Douglas. You didn't answer my question. How would you feel, if all those eventualities took place and there was a fire in a legal apartment in the city of Toronto? Why wouldn't you have amended the fire regs as they apply to the existing legal ones? What's the argument against that?

**Mr Douglas:** In municipalities that permit second units, a greater proportion of the units were installed with a building permit. Those units are far more likely to meet fire standards from day one. They would have the necessary exiting, smoke alarms, separation, that sort of thing. As well, in the absence of provincial standards that specify fire requirements for two-unit houses, many municipalities, including Mississauga, have implemented property standards provisions that deal with those.

So in many cases standards are already in place. They have proven not to be effective, because the tenants are aware that the units are illegal and that a request to have the unit inspected could very well lead to their eviction.

Where no standards are in place, fire marshals, who are deputized in each municipality with a sophisticated fire department, are authorized to issue orders on kind of an ad hoc basis based upon the existing guidelines. When a property that is legal is inspected, there are grounds to issue an order.

What the new fire code standards will do is impose a uniform—

**Mrs Marland:** I wonder if some of the conversations could be outside.

**The Chair:** I agree, Mrs Marland.

**Mrs Marland:** Are you saying that the legal apartments in the city of Toronto all meet the fire code requirements?

**Mr Douglas:** We certainly cannot say that. However, it is more likely that they would, especially those that were installed legally with a building permit.

**Mrs Marland:** You're not saying that, so you're saying there are legal apartments in Toronto that may be at risk, because you can't say they're safe.

**Mr Douglas:** That is correct.

**Mrs Marland:** So why wouldn't you have brought the new fire code regulation changes for "basement apartments," which is the draft we now have complete? Why wouldn't you have at least implemented those changes where existing legal apartments are?

**Mr Douglas:** Because the Ministry of the Solicitor General and Correctional Services did not want to create this impression across the province, in municipalities where units are illegal, that meeting the fire code standards was sufficient. As I was about to note—

**Mrs Marland:** But couldn't you have said to the city

of Toronto, "These are the new fire code regulations for your basement apartments?" You would be on pretty shaky ground if there had been a tragedy in a legal apartment and you're sitting with brand-new regulation changes that could have been implemented a year ago.

**Mr Douglas:** Currently, there are guidelines which can be applied by fire marshals when the unit is inspected.

**Mrs Marland:** Are the guidelines as strict as these?

**Mr Douglas:** The guidelines follow very closely what is in the fire code standards. The only difference—

**Mrs Marland:** No, in these new ones. Are the fire codes as strict as the new ones you're proposing?

**Mr Douglas:** Currently, the fire code does not have any standards whatsoever for two-unit houses. There are current guidelines which can be applied on an ad hoc basis by fire marshals. The new fire code standards will have a uniform set of standards across the province, no room for discretion at the local level. Furthermore, they would apply to properties which are not subject to inspection. Basically, meeting the new fire code standards will be a legal obligation. That is the main difference between guidelines and fire code standards.

**Mrs Marland:** How much better is it going to be for the legal apartments that exist today in the city of Toronto that may be at risk, where the fire marshal has had a set of guidelines and there has been no inspection? Without a registry, neither the fire department nor the city of Toronto knows that those apartments exist.

**Mr Douglas:** If the units are legal for zoning purposes, the tenants are in a far better position to complain to the fire department about substandard conditions, for example, a smoke alarm that does not work, an exit that is effectively blocked. That option's not available if units are illegal for zoning purposes.

**Mrs Marland:** You're saying there is a set of guidelines for legal apartments in the city of Toronto and you're saying the fire department has a right to inspect for those. What I'm challenging you on is that first of all, you can't tell me where they exist—"you" through the municipality, not you personally, obviously. Without a registry, the city of Toronto that has had, to use your words, the right to inspect and has had a standard of guidelines—not mandatory, by the way. A guideline isn't mandatory.

1700

**Mr Douglas:** In addition to the guidelines, the city of Toronto would have its own property standards provisions, related to matters such as smoke detectors, which would be mandatory.

**Mrs Marland:** Does the city of Toronto mandate smoke alarms now?

**Mr Douglas:** I would not want to say with any certainty, but I believe that is the case.

**Mr Grandmaitre:** Most municipalities.

**Mrs Marland:** No, not most. Mississauga was one of the first.

**Hon Ms Gigantes:** Margaret, there are two other pieces of information that might be useful to you.



**Mr Douglas:** Second, I would like to clarify that in situations where a second unit is added to a house without construction, it is still necessary to obtain a permit under the Building Code Act. The recent changes to the building code included part X to the building code, which requires the issuance of a change-of-use permit, even where no construction occurs, where there is an increase in hazard. An increase in hazard does occur, for example, when you have a second unit with another kitchen.

**Mrs Marland:** So if I have an existing basement apartment and it has been occupied as a basement apartment, it's not a change of use, right?

**Mr Douglas:** If it has been previously occupied as a basement apartment, it is not a change of use. But if it is a house with a basement that was previously used as a family room with a wet bar and a bathroom, no construction is required, except perhaps to install a separating door. If that unit is converted into a unit for the use of a separate household, it would be a change of use, and a change-of-use permit would be required.

**Mrs Marland:** Tell me then, if you've now got to get a change-of-use permit in the example you've just given, or if you're building something you've got to get a building permit, where is the difference between those requirements and the simple requirement of Mr Cordiano's motion and my motion that you register it at the same time?

When you go for a building permit, you have to practically sign your life away. I agree, by the way, with building permits; I'm not criticizing it. But the point is, if a municipality is going to issue—I guess you don't want to listen, but I'll say it—a building permit to an individual, the municipality already has a requirement to have a lot of information on the owner of that property. How much more work is it to say there will be a registry of those properties? You've already covered two. You've covered a change of use and new construction, so how far apart are you from having a registry? The information is already there with the municipality.

I ask you, Madam Minister, what is the hangup about the registry?

**Hon Ms Gigantes:** Mr Douglas has an explanation of the difference if you'd care to hear it.

**Mrs Marland:** Yes, I would care to hear it. That's why I'm asking the question.

**Mr Douglas:** The main difference is that registration would involve the mandatory inspection of all existing units, even where there is no complaint.

**Mrs Marland:** Now, wouldn't that be a good thing. You know why? You've just given us the perfect hook we're looking for. Where there is no complaint or no request for an inspection, because maybe that tenant doesn't know about Bill 120 once it's passed, or maybe that tenant doesn't have a facility with language and doesn't know his rights, they won't be asking for an inspection.

Your argument against a registry is that it would require an inspection. I think that's wonderful. If you really believe in what you're saying, why wouldn't you

want that inspection? You've just given us the perfect hook. I can't believe it, but it's wonderful.

I thank you for your answer, because the very thing you—you the ministry, you the minister, you the government—want to accomplish with Bill 120 is that you want to protect tenants, and you don't only want to protect tenants in basement apartments who know their rights, who know about Bill 120, who can read and speak English. You want to protect everybody else, I would think. If you really want to protect everybody in a basement apartment, why in heaven's name would you not want a requirement of an inspection, which is what is—

**Hon Ms Gigantes:** I can answer that.

**Mrs Marland:** Your staff said the argument against the registry is that it would require an inspection.

**Hon Ms Gigantes:** That's right. That means that everything stays illegal until, at somebody's leisure, there's an inspection. We want to see the situation end, Ms Marland, where all are illegal because of zoning—

**Mr Owens:** Come out to Scarborough, Margaret, and I'll show you some of these units.

**Mrs Marland:** Just a minute. I want to listen to the minister.

**Hon Ms Gigantes:** You would continue the state of illegality until the apartment happened to get inspected by someone. What we're saying is that it's very reasonable that we proceed first of all by removing the unnecessary illegality that's created by zoning. You would substitute for that an illegality because it's not now registered, because you can't get registered until you've got an inspection. Everything stays illegal, under your proposal, until an inspection occurs. That doesn't make sense.

We don't want to continue the illegal state. What we want to do is put these apartments in a situation where they are legal; where, if there are problems, they get reported, they get dealt with; where we're encouraging people by providing a framework in which it is permitted and legal to have an apartment in the house, even if it hasn't already been inspected, to continue having an apartment in the house, even if somebody hasn't got around to inspecting it yet.

What you would do is suggest that over 100,000 units continue in a state of illegality until somebody inspects them, and that defeats the whole purpose of getting this out of the underground market.

*Interjection.*

**Mrs Marland:** I'll only be a minute, Joe. I just want to get this very clear. Madam Minister, what you're saying is that you want to do X, Y and Z, legalize basement apartments, which I don't agree with, but I'm looking at it from your perspective. You want to do that. On the one hand, that's what you want to achieve. You want to say, "Okay, they're all legal," but you don't even want to know if they're safe, and you certainly don't want to register them, apparently, because that would mean an inspection. Do you agree with your staff person's answer, that the reason—

**Hon Ms Gigantes:** It would be wonderful.

**Mrs Marland:** Just a second. Your staff person said—

**Hon Ms Gigantes:** It would be wonderful if they were all inspected and we knew that each and every one were safe. But we are not willing to contemplate their continuing illegality until they get registered, which means they have to be inspected first. That doesn't make sense. That defeats the purpose of getting them out of the underground economy.

*Interjections.*

**Mr Cordiano:** If I may—

**The Chair:** Order. The next person on my list is Mr Johnson, who, through the wonders of electronic technology, I know is not here. The next one on the list is Mr Cordiano, then Grandmaître, then Mills.

**Mr Cordiano:** Let's deal with that very point, Minister, the point having been made that the unit would continue to remain illegal until an inspection was conducted. If that is the only concern you have, if you read the section on inspection, it says a municipality may inspect an accessory apartment as a precondition to registration. It does not order the municipality or does not require or obligate the municipality to do so. It says "may." It gives the municipality an option.

If that is troublesome, the real intent here is to have these units inspected at some point. I'm not objecting to having those units inspected after they're registered.

**Hon Ms Gigantes:** Then you'd better say that.

**Mr Cordiano:** They're registered, they're still legal, according to your bill as it would be passed, and then following the registration, an inspection should be conducted within a period that's reasonable. That's what I'm trying to get at.

**Hon Ms Gigantes:** Well, you're not getting at it.

**Mr Cordiano:** Well, let's change it. If that's all that concerns you, let's change it.

1710

**Hon Ms Gigantes:** Your amendment gives the municipality, if it seeks to proceed in this way, the power to refuse registration before an inspection.

**Mr Cordiano:** That's not the intent I had. I was giving the municipality flexibility, because it was contemplated that by way of regulation you would allow for—

**Hon Ms Gigantes:** Then let's go to the registry.

**Mr Cordiano:** The point of a registry is very much a part of what we're doing, very much critical to this, because we are attempting to identify where each and every unit is. You have expressed concern around tenants being able to feel as though they wouldn't be thrown out of their apartments, because they would check to see if this unit was registered with the municipality.

By registering the unit, it does two things: It identifies the unit and where it's located and it then enables either a tenant or the municipality, on its own initiative, to conduct an inspection. It's absolutely critical that we do those inspections to ensure that these units are safe. How in the world can we do that if an inspection is not conducted? You're telling me you're going to trust landlords in this case, in this particular sector. Are you listening

over there?

**Mr Mills:** You bet.

*Interjection.*

**Mr Cordiano:** No, it's not spinning it out. It's a critical point.

**Mr Mammoliti:** Mr Chairman, on a point of order: I think it's the heat that's getting to everybody.

**Mr Mills:** Not to me. I'm cool.

**The Chair:** I appreciate that view.

**Mr Cordiano:** A taste of summer.

The minister is saying, and let's make this very clear, that she in this case, in this instance, is trusting of landlords, that they will come forward. I'm saying the roles have reversed here. There's no incentive for those landlords who have illegal units, but if the unit is registered, a tenant would be able then to make submission to a municipality for the inspection to proceed and ensure that was going to be done. If the unit isn't registered, what in the world is going to compel a municipality to make that inspection? That will be delayed because there is no fee to be recouped by the municipality. There is no way in the world that you will get an inspection.

In your bill, you require a warrant to search that unit, a further barrier, a further hurdle to making sure that the units are safe. I can't follow the logic, Minister, I just can't. I've tried to follow it, honestly, but I just don't think what you've proposed is logical. I think it's totally inadequate. What you're suggesting is that you're going to rely on the good faith that exists out there for these units to be dealt with by landlords, that they will magically come forward and seek to have these units brought up to standard.

On the other hand you're expecting that tenants, on their own wisdom, with their own limited information that's been provided to them, will be knowledgeable on the building code, the draft amendments. I would offer this, Minister, that most members of the Legislature are not familiar with those draft amendments, if you were to take a poll. How in the world then can you expect tenants out there to be familiar with what is up to standard and what is not? That's what you're saying, and I'm saying that's not good enough.

**Mr Grandmaître:** I think the minister is very, very concerned about existing apartments and illegal apartments zoned illegal. Can I give you an example of an existing accessory apartment with good zoning, with the proper zoning? Has your ministry identified how many illegal apartments exist in the province of Ontario or let's say the city of Toronto with the proper zoning?

*Interjection.*

**Mr Grandmaître:** Thank you. I didn't think you had an answer.

What I'm saying is that every municipality that operates under the Municipal Act or the Planning Act has a committee of adjustment. If you're concerned that by having these apartments registered, they will be fined tomorrow morning, then under the Planning Act and also under the committee of adjustment, these landlords can appear before the committee of adjustment and be given



60 days, 90 days, 120 days, six months to upgrade their apartments, to make them legal.

**Hon Ms Gigantes:** Ten thousand in the city of Mississauga appear before the committee of adjustment? Ten thousand.

**Mr Grandmaître:** You don't know. You said you didn't have a number. Now you're using 10,000.

**Hon Ms Gigantes:** No, these are illegal apartments because of zoning. If you put in the registry system, what you're saying is that they can go to the committee of adjustment. There are going to be 10,000 of them that have to go before the committee of adjustment.

**Mr Grandmaître:** No, I'm not saying that and I'm not in agreement with you that there are 10,000. Maybe there's 15,000 or maybe there's 20,000.

**Hon Ms Gigantes:** Yes. Where's the lineup for committee of adjustment in the city of Mississauga under your proposal?

**Mr Grandmaître:** You're saying we're not going to accomplish anything with the committee of adjustment, and I don't think that by making these apartments legal tomorrow morning you're going to resolve your problem. You're going against the Municipal Act, you're going against the committee of adjustment, just because you've got something in the back of your mind, "Hey, let's take over zoning." Forget about zoning.

**Hon Ms Gigantes:** On one matter only; nothing else on zoning is changed. Nothing else is changed in Bill 120 about zoning powers in the municipality, except the municipality's right to say to a property owner, "You can't have one apartment in your house." That's it; that's all.

**Mr David Johnson:** That's rather significant.

**Mr Grandmaître:** That's very significant, because you're eliminating single dwellings.

**Hon Ms Gigantes:** That does not mean taking over zoning.

**Mr Grandmaître:** You're eliminating single-dwelling zoning; that's what you're doing.

I'm sorry, but I don't think we're going to win this round. I didn't expect to win this round. But I think, Madam Minister, you have the wrong conception or a misconception of zoning bylaws and what municipalities can do and what the fire marshal and municipal building inspectors can do. I don't think you've done your homework, because these people right now are asking you, are asking the government of Ontario, to give them more powers so that they can have access to these apartments and identify the illegal ones and make them legal. I don't think you're accomplishing this with Bill 120.

**Mr Mills:** I'm almost reluctant to say anything, because I don't want to prolong the agony any more and expect more rebuttals, but I think I would be remiss if I didn't talk to something that was said about 55 minutes back by the honourable member opposite me in so far as the fire chiefs are concerned. She suggested that her fire chief in Mississauga was speaking on behalf of all the fire chiefs, for all the members all across Ontario, and I beg to differ with that.

I just want to remind members that unless my memory has failed me somewhat since we heard the people appear before the committee, the acting fire marshal of Ontario appeared before us committee members, and that acting fire marshal, speaking for the province of Ontario and, I imagine, the upper tier of fire chiefs—

**Mrs Marland:** On a point of order, Mr Chairman: It needs to be said to Mr Mills that—

**The Chair:** Under what standing order?

**Mrs Marland:** It's under the standing order of—

**Mr Mammoliti:** Just say a number, Margaret.

**Mrs Marland:** —47(d).

**Mr Mills:** Who's he?

**Mrs Marland:** When I said that Chief Cyril Hare was speaking on behalf of—

**The Chair:** I think we have a point of view, here.

**Mrs Marland:** He was giving sworn evidence—

**The Chair:** There is no 47(d), Mrs Marland.

**Mrs Marland:** —at the coroner's inquest and he said that he represented the Ontario Association of Fire Chiefs.

1720

**The Chair:** Mr Mills has the floor.

**Mr Mills:** Thank you very much, Mr Chair; I will continue if I can. Notwithstanding what you've read, you made an aside after you read, "I hope you folks realize that this man was speaking on behalf"—I've made a note of it—"of all the fire chiefs in Ontario and all the fire chiefs there." I'm coming back with the retort that I was at that committee and, as I say, my memory may have failed me, but I'm not sure it did, the fire chief, the acting fire marshal of the province of Ontario—

**Mrs Marland:** He's not a fire chief; he's a fire marshal.

**Mr Mills:** This is the upper tier of management of the fire brigades all over Ontario. Let's face it, he is the big cheese of firefighting. He's the acting fire marshal of Ontario and he appeared before this committee and said, in effect, that everything we've done in this bill in so far as fire protection is concerned, the acting fire marshal of the province supports it.

He went further than that. I don't like to raise this, but it's getting rather sad to me that every time there's a fire in a basement, somehow we blame Bill 120 for it. That acting fire marshal of Ontario said there's absolutely no statistical evidence anywhere to suggest that there were more fires in basements, that there was more danger in basement fires: nothing. He never said that. He said there was no evidence of that anywhere in the province of Ontario. This is the spokesperson, I say, for the whole of the province of Ontario in so far as firefighting techniques, direction—they direct.

**Mrs Marland:** He's a bureaucrat, for crying out loud.

**Mr Mills:** They direct the fire brigades of every city in this province. Don't you get this through your head that they set—

**Mrs Marland:** You've got the same lines as your minister.

**Mr Mills:** Of course, they set the policy. They say what the fire brigade will do, how they will act, what the training is and he said he has no difficulty with this.

**Mrs Marland:** I don't say to you, "Don't you get that through your head?"

**Mr Mills:** I want to go on again a bit. There's all this talk about, "You can't get in, you can't get in." I remember that acting fire marshal telling the committee—I don't know if you were there; you were on and off—that the Fire Marshals Act has the provision for these basement apartments to be looked at, checked etc.

**Mr Cordiano:** Now, currently.

**Mr Mills:** Currently. He said the only difficulty with it is that some fire chiefs and some fire people have some—what was the word he used? I'm trying to think.

**Mr Cordiano:** That's my point.

**Mr Mills:** He said they have some sort of discomfort level in using the powers they've got, but to say they haven't got the powers there now to do all the sort of things you say they can't do, they have under the act.

Maybe it's a good point—no, I better not. We haven't got our members here. I was going to suggest something. I'm fed up with this.

**Hon Ms Gigantes:** We've got enough members, Gord.

**Mr Mills:** Have we? Can I suggest that the question be put.

**Mrs Marland:** It won't work.

**The Chair:** I'm not certain you want to do that, Mr Mills.

**Mr Mills:** I'm fed up.

*Interjections.*

**The Chair:** I didn't hear that, Mr Mills.

**Mr Mills:** Okay. That's my nature, to move it along.

**Mr Cordiano:** There's nowhere to go, Gord.

**Mr David Johnson:** I unfortunately missed a chunk of this this afternoon, but—

**Mr Owens:** We saw you on TV.

**Mr David Johnson:** Yes, that was one benefit, I suppose. Just to comment on the last few statements by the member opposite, Mr Mills, it's fine to make a certain interpretation of what the fire marshal has said; it's fine to look in the Fire Marshals Act, which I have in my hand right now, and find a certain section that apparently gives fire departments authority to go in; it's fine to do that without looking at the whole act; and it's fine to do that without talking to the fire chiefs. I wonder if the members opposite have actually talked to their fire chiefs and said: "How do you feel about this? What authority do you think you have?" I have. Maybe that's not too surprising, because I've worked—

*Interjections.*

**Mr David Johnson:** I've talked to the fire chief from the borough of East York and he says—

*Interjection.*

**Mrs Marland:** No, he said your fire chiefs.

**Mr David Johnson:** He said the fire chief. It's not

the fire marshal who's going to go in and inspect these basement apartments, it's the fire chief and the staff within each municipality who are going to go in and do it if it's going to be done, although I've heard earlier that there's concern that there's too much to do and maybe we shouldn't do it, or something. I don't know what I missed exactly.

I've talked to the fire chief in the borough of East York and it's certainly his impression that the fire marshal's authority here—if you look at the act, the authority that's passed from the fire marshal to the fire chiefs comes under the category of an assistant to the fire marshal. So various people within local fire departments are construed to be assistants to the fire marshal. But it's the understanding of the fire chief that there has to be some serious health or safety problem before they can go on.

I've asked him: "That's your interpretation, and you've talked to other fire chiefs. Is that their interpretation, from your experience?" Obviously, he hasn't talked to everybody, he doesn't know everybody, but he says, in his experience, yes, that's the way it's interpreted. They feel there has to be something serious that they're aware of, that's visible, before they can go in. They can't just go in and inspect. They do not have that authority, in their view.

Now, the minister may think they have that authority. The fire marshal apparently has conveyed to the member that—

**Mr Mills:** To the committee.

**Mr David Johnson:** Well, everybody has a different interpretation of what the fire marshal says, but the fire chief, at least one fire chief, the fire chief in the borough of East York, is saying that the fire marshal is conveying to him, as the fire chief for the borough of East York, that he does not have the authority to go in unless there is a serious health or safety problem that they're aware of. So it's a catch-22: How do you know there's a serious problem unless you get in to see it?

**Mr Gary Wilson:** Unless the tenant comes to you.

**Mr David Johnson:** Or unless the tenant comes, yes.

**Mr Gary Wilson:** They won't come because they're illegal. That's the whole point.

**Mr David Johnson:** Well, that's a point my colleague to my right, Mr Cordiano, has commented on.

**The Chair:** Order, Mr Wilson.

**Mr David Johnson:** The government's view is that all tenants, in all circumstances, 100%, will come forward and will say: "There's a serious problem here. There may be a serious problem. Come on in and inspect." They don't have to say it's a serious problem; they only have to come forward and give permission. Then, of course, the zoning inspector can go in, the property standards inspector can go in, the building inspector can go in, the health staff can go in, the fire department can go in. All these people can go in if they're invited, but none of these people can go in if they're not invited.

**Mr Gary Wilson:** That's not true.

**Mr David Johnson:** Only if there is, in their view, a



serious health or safety problem that they're aware of: catch-22. The question is, how many people will invite the fire department in, will invite the property standards people in, if this is made legal? It's the government's view that they'll all invite them in. I think that's pie in the sky. From my experience—

**The Chair:** Through the Chair, Mr Johnson.

**Mr David Johnson:** Mr Chairman, I would encourage the government members, before they come to that conclusion, to talk, maybe sit down with some of their local councillors, sit down with some of their property standards people, sit down with some of their fire department people in their municipalities and find out their experiences. My experience has certainly been that access is denied not only by the owner of the property but by the tenant.

I know that in East York we've had instances where a person in the neighbourhood will complain about a certain building, and when the inspector comes to the door and says they'd like to come in and inspect and find out what's going on, they're not allowed in. I think that'll be true. A large number of people either will not request an inspection or will not permit, even after this bill, the inspector to go in. So that seems to be the basic difference.

I was going to ask the minister a question. There was a question in the House that I think was posed by Mrs Marland actually, and the minister responded—I have Hansard here in front of me. I direct this question to the minister.

The minister said, "The situation under Bill 120 is that all new apartments in houses will only be legal if they have a building permit and are thus certified by the building inspection branch that they meet the safety code, the Fire Marshals Act and the building code."

I just wondered if the minister would expand upon that. I'm not quite 100% sure of what she meant by that.

**Hon Ms Gigantes:** What worries you?

**Mr David Johnson:** I may have missed it here, but is it contained in the bill that all new apartments must be inspected?

**Hon Ms Gigantes:** Any new apartment requires a building permit.

**Mr David Johnson:** How is it that you say that? I mean, we have 100,000 across Ontario.

**Hon Ms Gigantes:** To be legal, a new apartment in a house will require a building permit. You missed an explanation by Mr Douglas earlier about the requirement within Bill 120. We can repeat it if you like.

**Mr David Johnson:** Perhaps you could quickly draw my attention to the clause here.

**Mr Douglas:** This is related to creating new apartments in houses, new construction. If a unit is added to a—

**Mr David Johnson:** It says all new apartments in houses; it doesn't say "new house." It says a new apartment.

**Hon Ms Gigantes:** That's right. That's what we're talking about.

**Mr David Johnson:** A new apartment, yes, okay.

**Mr Douglas:** Second units added to brand-new houses are covered by part 9 of the building code. Second units added to existing houses where construction is required is covered by part 11 of the building code. A new part of the building code, which is part 10, provides for the issuance of a change-of-use permit where a second unit is added to an existing house where no construction is required.

1730

**Mr David Johnson:** So this is a change to the building code.

**Mr Douglas:** This is existing provisions of the building code.

**Hon Ms Gigantes:** They were changed in July 1993.

**Mr David Johnson:** So they were changed in which—

**Hon Ms Gigantes:** In July 1993 they were proclaimed.

**Mr David Johnson:** They were changed in July 1993, and those changes of July 1993 for a new unit in an existing house—say what?

**Mr Douglas:** If a new unit is added to an existing house and renovation work is required, part 11 of the building code was amended to set specific standards which deal with that situation.

**Mr David Johnson:** Okay, now can I ask how you would know if a new unit is added to a house?

**Mr Douglas:** The most common approach is when somebody comes forward and applies for a building permit. If they do not and the building official has reason to believe construction has occurred, the building official can apply for a search warrant and the person can be charged or be issued an order to comply.

**Mr David Johnson:** Let's deal with them one at a time. Of course, the experience in the past has been that many, many, probably the majority of these apartments are put in without a building permit. Why have you reason to believe that somebody would now come forward and ask for a building permit based on the fact that literally thousands have gone in without building permits?

**Hon Ms Gigantes:** The same way they'd come forward to register.

**Mr Cordiano:** At least you admit that much.

**Hon Ms Gigantes:** Well, no, that's what we've been discussing all along.

**Mr David Johnson:** I assume that's a snarky comment, but at any rate, if I can direct my request to the staff—

**Mr Douglas:** If a second unit in houses is illegal for zoning purposes, if you come forward and ask for a building permit, that building permit will be denied. Basically, if people wished to install a second unit, they were obliged to do so illegally. It's possible that some, of course not all of those people, would have chosen to install the unit with a building permit if they had had that option.

**Mr David Johnson:** You said that if the building department thinks this is going on—building permits costs money and I suggest to you that many people will not come forward because of that and the fear they may be turned down, or heaven knows what, but you said that the building department could get a search warrant.

**Mr Douglas:** That's correct.

**Mr David Johnson:** What would they have to prove? I don't know how to phrase this. What conditions do they have to meet to get the search warrant?

**Mr Douglas:** The offence would be construction without a building permit, so they would have to show reasonable grounds that such construction is going on and that investigating the property will help provide evidence in a conviction.

**Mr David Johnson:** What would they have to do to show reasonable grounds?

**Mr Douglas:** That is certainly not my area of expertise, but they would have to go before a provincial court judge or a justice of the peace. Perhaps some of our legal people can help here.

**Hon Ms Gigantes:** We do have legal assistance. Mr Lyle could help us here.

**Mr David Johnson:** We're sort of going around the room here. Where did we end up?

**Mr Tom Melville:** It's Tom Melville, Municipal Affairs legal counsel, and I was wondering, could you repeat your—

**Mr David Johnson:** The statement was made that if a new apartment goes in a house and if they don't come forward and ask for a building permit, but the building department has some suspicion that an apartment is going in without a building permit, then it can get a search warrant to go in and look and see if an apartment is going in without a permit. But it's been established in front of the authority that they would need to show reasonable grounds before they would get the search warrant. My question is, what would they have to do to show reasonable grounds? What evidence would they have to have?

**Mr Melville:** Can I backtrack a little bit from the question, because it may be helpful? There are two possible regimes that might apply. The first would be the building code, and that's in the case of new construction. If there were no new construction, and that could also be the case, then there would be the property standards bylaw of the municipality. This bill deals with the latter part of it for the property standards, and provides an additional power, the power of entry, in terms of a warrant, as has been discussed earlier today.

**Mr David Johnson:** Can I just clarify that? You're saying that if an apartment is put in, then it might not necessarily need a building permit. Is that what you said?

**Mr Melville:** That's certainly conceivable.

**Mr David Johnson:** Yes, that's conceivable. In that case it would be a property standards matter.

**Mr Melville:** Yes.

**Mr David Johnson:** Okay. Let's deal with that then. The municipality wouldn't know that until it got in to

see. Somebody would have to get in to see, because how would you know, unless you got in to see, if it needed a permit or not and if everything was being done right or not?

**Mr Melville:** It's certainly conceivable that they might not know, although it's also possible—

**Mr David Johnson:** I don't know how they would know unless—

**Mr Melville:** It's also possible that they would know because a neighbour or a tenant came forward and gave them the information, if not the owner. There are going to be circumstances—

**Mr David Johnson:** I don't know what municipality would accept that sort of third-person hearsay, but that would be an interesting procedure. You've indicated that the property standards people may actually be the authority that should get in and inspect. Then I presume the property standards people would have to get the same search warrant—

**Mr Melville:** That's correct.

**Mr David Johnson:** —and they would have to show the same reasonable grounds.

**Mr Melville:** Reasonable grounds.

**Mr David Johnson:** What are those reasonable grounds that either the property standards people or the building inspectors would have to show to get in to make sure that everything was done properly and the safety was all looked after?

**Mr Melville:** Again I'll backtrack a bit, but there's a reason. Under the property standards regime there are two steps. The first step is the obtaining of a property standards order. That can be obtained when the city becomes aware that there's a property standards matter at issue.

**Mr David Johnson:** Can I just back up in there too, since you've introduced that? For the city to issue an order, it has to be aware that there is a violation. Am I right?

**Mr Melville:** No. Well, for them to issue an order, they first have to go through the procedure prescribed in the act, which would involve an inspection.

**Mr David Johnson:** Then that brings back the same question: To have an inspection, even to the stage of issuing an order, they have to get in. If they're denied entry, if they have to get a search warrant, then they still have to show reasonable grounds, presumably, don't they? I'm just trying to think from my previous experience. I don't think you can issue an order to comply without having gotten in, inspected and found the violation; otherwise you're just speculating on what the violation may or may not be.

**Mr Melville:** That's correct and that's why I was backtracking. Once a property standards order is made and then if there is a suspected offence, then you can obtain a warrant if you have reasonable and probable grounds to get in.

**Mr David Johnson:** The question is, what do you have to do to establish reasonable and probable grounds? It would be before, what is it, a justice?

**Mr Melville:** Yes.



**Mr David Johnson:** If you were the property standards or building inspector for the municipality and you appeared before the justice and said, "I need a search warrant," the justice would say, "How have you established reasonable grounds?" What do you think you would have to demonstrate to the justice so that he would give you that search warrant?

**Mr Melville:** I'm not sure I could answer that in the concrete. In the abstract, it's simply reasonably relevant grounds that are relevant to the commission of an offence so as to convince the justice or judge that the standards for the issuance of a warrant have been met.

1740

**Mr David Johnson:** This may not be your jurisdiction, but have you discussed this with any municipalities to establish their experience and what they've had to do to show reasonable grounds? I know that in my former municipality, in talking to our property standards people, they have been rejected on numerous occasions from getting a search warrant because they have not been able to establish the criteria that are in place today, and they're turned down. I just wondered if you had discussed this with municipalities to see what's really going on out there. It's nice to assume these things automatically happen. The problem is that in the real world, they don't. Municipalities do get turned down.

**Hon Ms Gigantes:** Previously, though, you will recognize that when your officials were requesting permission to enter to carry out an inspection, they would have been required to say what they were going to seize as evidence in their search. Under Bill 120, that requirement is no longer there.

If I could speculate where our legal assistant does not wish to, for example, I can imagine a situation where when you're talking about a serious violation which would cause, for example, a fire official to seek a search warrant for power of entry from a justice of the peace, that official may have been approached by a neighbour who says, "I believe there's somebody living in the basement. I can tell by the lights." The official goes and looks at the windows, if it's a basement apartment, and decides that those don't look like they're meeting the fire code and goes before the justice of the peace and says, "I think I have reasonable and probable grounds."

**Mrs Marland:** But they don't accept that.

**Mr David Johnson:** They don't, that's the problem.

**Mrs Marland:** That's the problem, Evelyn.

**Mr David Johnson:** You should talk to some of the municipalities because it just doesn't work.

**Mrs Marland:** Just talk to some of the JPs. It doesn't work. They don't accept that.

**Mr Douglas:** If I could add something, the most serious violations of a property standards nature are those that present a risk of fire and those would be covered by the Fire Marshals Act. Under the Fire Marshals Act, section 18, a fire marshal who has grounds to believe there is a threat of fire, which is a danger to life, can enter the property without a search warrant. So there would be no need to show reasonable grounds before a justice of the peace.

**Mr David Johnson:** That's where I started out this whole business. I have it right here, and that's the clause I'm sure you quoted in the House, but the problem is that when you talk to the fire chiefs, they don't have that kind of evidence. Again, they think there has to be a serious health or safety aspect and that would not be the case in 95% of the situations.

**Hon Ms Gigantes:** The threat of a fire may be considered that.

**Mr David Johnson:** What is the threat of a fire?

**Mrs Marland:** How do you prove the threat of a fire?

**Hon Ms Gigantes:** May I also suggest that in the past we may have seen situations in which there would've been some reluctance on the part of a justice of the peace to permit entry to try and enforce something that was a zoning matter, essentially, and because Bill 120 moves away from the question of declaring the unit illegal because it's not zoned appropriately, you're going to see a situation where the focus on safety of the unit becomes the question. That's the intent of our changes.

**Mr David Johnson:** I don't know. You're speculating there and it's nice to speculate. I do recognize that in terms of evidence, you don't have to seize evidence. I'm well aware of that and that is a minor step.

However, in talking with staff at East York, after I became aware of that some time ago, I asked them if this would make much of a difference and in their view, it wouldn't. They still have to show reasonable and probable grounds, whatever it is, and that's going to be a problem.

No judge or no justice will accept some neighbour who may have peered through a window or something. I can tell you that we tried that; it doesn't work. There have been instances where properties have been advertised in the newspapers as having a basement apartment, as having a second unit, and we've taken that to the justice to say, "Look, right here in the newspaper it says this place has got a second unit," and that's not considered. For whatever reason, they don't accept that.

We had a case in East York where the inspector did get in. The tenant, I guess, let the person in and they went down to the basement to see the conditions. Then somehow it got to court because something wasn't quite right and it got thrown out. I forget the details now, but the judge asked the inspector, did they see the kitchen. The problem here is that you can only have one kitchen in a building under the present setup. The judge asked, did they see the kitchen on the main floor and the inspector said, "No, we just went down to the basement." It was probably a zoning problem, that's probably what it was. They only saw the kitchen in the basement.

So it was thrown out on a technicality that they didn't go to the main floor and see a kitchen, go to the ground floor and see a kitchen. Even though the inspector had been in and seen the situation in the basement, it was still thrown out on that kind of technicality.

**Hon Ms Gigantes:** There are other anecdotal stories, too, from East York, where a legal clinic on behalf of a tenant asked for an inspection and was told, "No, we don't inspect apartments which are illegal because of the

zoning." That was contained in a letter in a Toronto newspaper about three weeks ago.

**Mr David Johnson:** I don't know. I haven't got that letter in front of me, but all I can say is that for the fire department and for any municipal staff who are inspecting, the authority that's in section 18 of the Fire Marshals Act or any other authority has not worked up to this point.

Fire chiefs I've talked to—certainly in Ottawa we talked to the fire chief, he wasn't allowed to speak because he couldn't get on the list; our fire chief in East York; I believe Chief Hare from Mississauga—are saying that they have not been given sufficient authority in this bill.

**Hon Ms Gigantes:** I think it's fair to say that people who are responsible officials, who feel a very strong duty in their role as responsible officials, would prefer to have a situation where there were practically no inhibitions about their exercise of their powers. That's generally true of human beings. That doesn't mean that we have to accept that's the way life should proceed. There are certain kinds of reasonable limits on authority and on the requirements of the use of authority within society and I think that the balance here is a very reasonable kind of balance. I'm not surprised that fire officials would prefer to be able to just walk in anywhere, any time, any old way, but that doesn't mean we have to accept that suggestion.

The acting fire marshal of Ontario feels that there is adequate strength in the legislation and in the revised code to permit officials to carry out duties in a way that's going to improve the health and safety of apartments in houses.

**Mr David Johnson:** I guess we're going to differ on this but I think it goes beyond sort of speculating on what people would be comfortable with and aren't comfortable with. It goes to the issue of are we concerned about the safety of people who live in those units or not, and are we going to give the municipal officials the power they need, or are we going to wait—

**Hon Ms Gigantes:** There's always a balance.

**Mr David Johnson:** There's some interpretation of what the fire marshal will think is significant. I can tell you that the fire chief in my municipality says that up to this point the fire marshal has said to the fire chiefs that they do not have the authority to get in and make the inspections.

I don't know what the minister has in mind as to how many of these units will be inspected. I'm starting to become suspicious that perhaps, Minister, you don't think too many of them either need to be or will be inspected and yet they will still be safe somehow. It's certainly my belief that with what we have in the Fire Marshals Act and what we have in this bill—I don't know all the regulations that are coming in—the fire chiefs will not have the authority to get in to inspect and they will not inspect many, many units and consequently we are not really addressing the safety problems.

**Hon Ms Gigantes:** We don't intend to take a passive position in terms of the implementation of Bill 120. We

intend to be as aggressive as possible within reasonable limits of expenditure to let everybody concerned with the subject of apartments in houses understand what Bill 120 is, what it provides in terms of a framework to ensure safety, everyone, from real estate agents to you name it, who has an interest in this matter.

1750

**Mr David Johnson:** I just encourage you to talk with some of the municipal officials, not just the fire marshal. I have one last question.

If in an existing building there's a suspicion that a new unit is put in, a new apartment—maybe I should direct this to the staff—and if you do get in and the owner—this is a problem I've encountered in East York because at one point we were looking at—as a matter of fact, the regulation in East York now is that apartments that are put in before such and such a date are legal, and after such and such a date generally are not. We've come up to the situation that if you go into a building and there's a question of whether it's legal or not, sometimes the owners would say, "Oh, well, the apartment was put in before that date," so therefore it's legal; legal non-conforming, I guess, is the proper term. Then it's difficult to prove when the apartment actually went in.

I'm just wondering, under what we have here today, if there was some suspicion that a new apartment was put into an existing house, a house that had been there for decades, how would you know when that apartment was put in? How would you know if it was put in before the passage of Bill 120 or after the passage of Bill 120?

**Hon Ms Gigantes:** It doesn't matter.

**Mr David Johnson:** Well, just by your statement, you say that all new apartments will only be legal.

**Hon Ms Gigantes:** All existing apartments will only be legal if they meet the standards.

**Mr Douglas:** If a second unit was added to a house built after July 1993 and it was built as a single-unit house, it would be caught by the change of use because, by definition, the second unit was added after the change of use cutoff date.

**Mr David Johnson:** Could I just backtrack? When was the house built?

**Mr Douglas:** If the house was built after July 1993, when the change-of-use provisions in the building code clicked in, the second unit would automatically be caught.

**Mr David Johnson:** Yes.

**Mr Douglas:** If it was built beforehand, you are correct, it would be hard to identify when the second unit was installed. However, if it was an existing unit, provisions of municipal property standards bylaws and of the fire code would apply. So units would have to comply with those standards and, therefore, be upgraded to meet those standards rather than being dealt with under the building code.

**Mr David Johnson:** All right, because this is a problem that's going to arise; there's no question about it. You're going to have existing structures and you're going to go in and be suspicious that an apartment was created very recently, but you're not going to be able to



prove that.

**Mr Douglas:** The provisions of the fire code, or the new fire code standards related to fire exiting, smoke detectors and fire separation are very similar to those which are in part 11 of the building code, so even though you cannot establish when the unit was created, the provisions of the new fire code would apply.

**Mr David Johnson:** If you knew and could prove that it was implemented after July 1993—is that the date?

**Mr Douglas:** Correct.

**Mr David Johnson:** Then there's one set of provisions that would apply. If you had proof that it was installed before July 1993, there's another set of provisions that apply: It's just the building code that applies?

**Hon Ms Gigantes:** Now it's the building code.

**Mr David Johnson:** Yes, that's the building code.

**Mr Douglas:** If it's a new house, you know it was built with one unit.

**Mr David Johnson:** Yes. Forget about the new house. Let's take an old house and there's a unit, but we don't—maybe before or maybe after. What is the prime difference then between the building code, as it stands, and the standards that were brought in in July 1993? What would be the prime difference?

**Mr Douglas:** The building code was amended in July 1993 in two basic ways relative to apartments in houses. First of all, specific standards were included in part 11 for units added to existing houses and, secondly, there was a provision that a change-of-use permit be obtained when a unit was added after July 1993.

**Mr David Johnson:** In terms of the actual—I'm thinking of the safety standards, though. Is there any difference in the safety standards between—?

**Mr Douglas:** No.

**Hon Ms Gigantes:** The fire code is the fire code is the fire code.

**Mr Douglas:** The fire code will apply to all the units regardless of when they were added, and the fire code standards are very similar to part 11 of the building code standards.

**Mr David Johnson:** What confuses me, Minister, is that you made the statement that all new apartments will only be legal if they have a building permit, but most of them will go in—or some of them certainly will go in without building permits, and then we got into this business about July 1993 being an important date.

I'm trying to put all this together because I think you will have—if it's important, you'll certainly have people, if they don't get a permit and put in an apartment, many of them will claim they put it in five years ago or two years ago or whatever. What difference will that make in terms of the safety?

**Mr Douglas:** If a unit is installed without a building permit, the property owner commits an offence. If they are not caught for committing that offence and the unit does not meet the fire code standards, they can be caught later on as the result of a fire inspection for not meeting the fire code standards, which are very close to the building code standards in key areas.

**Mr David Johnson:** Yes, because as you say, the only way the building department can get in is to prove reasonable grounds. Again, I think it will be really tough to prove reasonable grounds. Then once the apartment is finished and the building inspector gets in, the owner will just say: "Well, I built this in 1991. Prove I didn't."

**Mr Douglas:** In which case the property standards and the fire code would apply to an existing use.

**Mr David Johnson:** So what is the significance of July 1993 then?

**Mr Douglas:** That relates to the change-in-use provisions. Before July 1993, if you could add a unit to a house without needing a building permit—for example, just by locking an interior door—the building code would not apply. After July 1993, adding a second unit means a change-in-use permit has to be obtained even if construction is not needed.

**Mr David Johnson:** I want to get back to your colleague here. Your colleague indicated that there are conditions where you wouldn't need a permit.

**Mr Melville:** It would have to be prior to 1993.

**Mr David Johnson:** Prior. But you're saying that if it happens after 1993, even if you do some mundane thing—I think if you change any structural wall, you need a building permit, but if you're just plastering an exterior wall, today you wouldn't need a building permit to do that. But you're saying that under this bill now that came in in July 1993, no matter how minor it is, you still need a building permit.

**Mr Douglas:** If you change the use of a property in a way that affects the risk of that property, a change-in-use permit is required, and going from one unit to two units falls under that definition.

**Mr David Johnson:** But it still boils down to, if anybody's going to get in, they'll need reasonable grounds.

I see everybody rustling around. Have we run out of time?

**The Chair:** We still have some time, and Mr Mills would like to ask a question.

**Mr Mills:** I'd like to take up on obtaining the search warrant and having reasonable and probable grounds to do so, and I speak with some experience of procuring those documents.

It's my understanding that when new legislation has been introduced such as Bill 120—I worked in another life where new legislation was introduced which gave some inspection staff, including mine, what we considered to be some really drastic powers. Having sensed that these powers would somehow throw a bolt into the judicial system and the JPs and everything, people took it upon themselves to meet with the judiciary and the administrators of court and go through the legislation to explain, first of all, the powers that were now granted to us in our capacity, and then they sort of said, "Come to grips with it."

In all fairness, recognizing your concerns about reasonable and probable grounds, I would imagine that fire chiefs will go to their local court administrator or

something, present Bill 120 as something new in so far as obtaining a search warrant is concerned, that you're not going to seize any property, and some amicable discussions could be taken between those two people that would suggest, "Well, now we understand it," and the issuance of a search warrant when needed would be that much more facilitated through that discussion.

I've done this myself when we anticipated some real

problems with the powers that we were given. Having explained it to those folks, we didn't have any problems about entering and seizing books and whatever. I would think that the same introduction to Bill 120 for the necessary authorities would help in that manner.

**The Chair:** The committee is adjourned.

The committee adjourned at 1800.





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Cooper, Mike (Kitchener-Wilmot ND) for Mr Dadamo

Cordiano, Joseph (Lawrence L) for Mr Sorbara

Marland, Margaret (Mississauga South/-Sud PC) for Mr Arnott

Owens, Stephen (Scarborough Centre ND) for Mr Dadamo

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Morrow

#### **Also taking part / Autres participants et participantes:**

Ministry of Housing:

Gigantes, Hon Evelyn, minister

Douglas, James, policy adviser

Melville, Tom, legal counsel, Ministry of Municipal Affairs

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Gottheil, Joanne, legislative counsel



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of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Thursday 14 April 1994

**Journal  
des débats  
(Hansard)**

Jeudi 14 avril 1994

**Standing committee on  
general government**

Residents' Rights Act, 1993

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Thursday 14 April 1994

Jeudi 14 avril 1994

The committee met at 1015 in committee room 1.

RESIDENTS' RIGHTS ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS

EN CE QUI CONCERNE

LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** The purpose of the meeting this morning is to continue the clause-by-clause consideration of Bill 120. At the conclusion of last Thursday afternoon's meeting, we were discussing Mr Cordiano's amendment, which you will find numbered as 81.2. Number 6 is the number at the top of the page, so that all members know where we're at. At the conclusion of Thursday's proceedings, Mr Johnson had the floor, and I have Mr Cordiano on the list.

**Mr David Johnson (Don Mills):** The never-ending story.

*Interjection.*

**Mr David Johnson:** You never know. You might be thankful if it was.

Since Mr Wilson, the parliamentary assistant, has been kind enough to offer his observations here this morning, let me pose a question to him, or he can deflect it to staff.

Between last Thursday and today, my staff has had the opportunity to talk with another one of the fire chiefs, Chief Hare, who did make a deputation to the committee. We are getting different versions of the fire chiefs' right to go in and to inspect apartments, so we've been kind of busy, but we tried to put in a couple of phone calls and we were able to talk to Chief Hare.

I'll tell you some of the comments he made to my executive assistant. Chief Hare says that he wants clarification from the Solicitor General with regard to the right of entry. As I understand it, the fire marshal reports to the Solicitor General, so unfortunately we're talking about a different ministry. Mr Wilson is representing Housing here today, but it's really the Solicitor General who has responsibility over the fire marshal.

What Chief Hare says is, "The fire marshal's office has advised fire services such as Mississauga that they are not to force entry in situations where a person refuses entry to a premise." For example, they can't kick in a door. What Chief Hare is saying is that if they come to a house and wish to inspect, even if somebody has indicated to them that there may be a danger but they can't visibly

see that danger, then the fire marshal's office has advised Chief Hare not to force entry.

The only alternative, if they feel they should persist, is to get the search warrant. We've discussed the difficulties of obtaining a search warrant. There have to be reasonable and probable grounds. The difficulty is, if you come to 99% of these houses, they look absolutely normal. You can't see smoke coming out; you can't see the effects of a bomb or anything like that. There's no reason to believe that there's any dangerous situation as you're standing on the outside of these properties.

**Mr Gary Wilson (Kingston and The Islands):** Right. They're the same as any other dwelling place, in fact.

**Mr David Johnson:** That's right. It's the same as any other place.

**Mr Gary Wilson:** I think that's one of our points. We want to treat them the same as any other.

**Mr David Johnson:** But the question has come up, will the fire departments be able to inspect to ensure safety? I thought and I was hoping that one of the main purposes would be to install a higher level of safety.

The fire chief from the city of Mississauga says that the fire marshal, and the fire marshal is using the Fire Marshals Act, I guess, which I had in my pile of paper here somewhere—I can't lay my hands on it right now. There's a section in it that has been quoted to us on a number of occasions that allows entry to the fire departments. That has been quoted to us. I have it here now. It's chapter 17 of the Fire Marshals Act, clause 18. It has been said to grant entry, but Chief Hare is saying that the fire marshal is telling them, no, they are not to force entry. If the person who answers the door does not allow them in, they cannot get in, and their only recourse is to go through a search warrant. Everybody I talk to says that's a near impossibility. When I last talked to East York, it's been turned down, in the very recent past, three straight times on the search warrant.

I just wondered if the parliamentary assistant could clarify why, on one hand, we're being told that the Fire Marshals Act, clause 18, is power for the fire departments to get in and inspect and ensure safety and, on the other hand, we have the fire chief of one of the largest municipalities in Ontario, Mississauga—and I can also say that the fire chief in my own municipality of East York is saying exactly the same thing—that the fire marshal's office is telling them no, that this chapter 17 of the Fire Marshals Act does not give them the power to go in and inspect and consequently to ensure safety.

**Mr Gary Wilson:** Just to be clear about this, Mr

Johnson, do you mean in all circumstances, including one where the risk of fire poses a threat to life?

**Mr David Johnson:** If there is an obvious, visible threat, then I get the impression that in those circumstances they would be more firm. I don't know if that means they'd break in. Obviously, if they saw smoke rising, I'm sure they would break in the door or break a window or do something to get in.

**Mr Gary Wilson:** Or fumes.

**Mr David Johnson:** Or fumes or something like that, but in I would say 99.9% of the cases, that's not going to be the situation. The situation is going to be that they're trying to do an inspection. Somebody has told them that there may be a basement apartment there. They don't know for sure. They're trying to make sure that there's safety. We want these apartments to be safe. Unfortunately, we've had two or three fires, I think, even since we've started the discussion on this bill.

I had thought we all wanted the fire departments to get in to inspect, and we're being told by the minister that with this bill and with chapter 17 of the Fire Marshals Act, indeed the fire departments across Ontario could get in and could do that inspection. But I'm being told by two of the fire chiefs that unless there's a fire that's evident or smoke or fumes, which will be in very, very few of the cases, then they can't get in.

**Mr Gary Wilson:** But that's the abstract. What in practice is happening—from the submissions that we got during the public hearings, it appeared that there very, very few cases where they were ever denied entry. So I'm just wondering, in your conversation with Chief Hare, did you ask him that? What's the latest? Did this spring out of a concern that they're being denied entry in a lot of places? I must say on that point, we're suggesting that with legalization people will be on a much surer basis. If there's a hazard, both the owner and the tenant would want it investigated to see what it is, to get it cleared up, once it's legalized. Whereas, when it's not legal, there's the powerful disincentive that comes from revealing that they have an illegal unit. So by legalizing again, it's going to invite people. But the main point I want to clarify is just how many fire officers are being refused entry.

**Mr David Johnson:** Well, I'll certainly go back. I didn't talk to the fire chief myself. I was doing the Ottawa-Carleton bill yesterday afternoon when the conversation took place. You can't be in two places at the same time. But first of all, do I sense at least the recognition that if the person who answers the door denies the fire department the right of entry, and if there isn't some obvious threat, indeed the fire department does not have the right to barge in and do an inspection?

**Mr Gary Wilson:** Yes, and again this is like any other residence. I think you'd agree, you'd want that kind of protection, that if the resident, for whatever reason, refuses entry, then you'd want some procedure to gain that access. After all, just think of your own place, Dave, and somebody came to your house and said that a neighbour or somebody has reported a fire hazard. You might want to think about that before you'd invite them in unless you smelled the fumes or saw the smoke. So

again, it's treating these residents like any other. I think the right to privacy is a major issue here. That's why we have this procedure of the search warrant.

**Mr David Johnson:** Okay, I hear your message. Now, I'm not so sure that's precisely the message that was conveyed to us in previous sittings.

**Mr Gary Wilson:** By whom?

**Mr David Johnson:** By the minister, for one. I'll have to go back and check all the records, but I thought that certainly the minister, if not in this committee, in the House indicated that her interpretation of the Fire Marshals Act was that it permitted fire departments to go in and to inspect. Now I'll go back and check, but Chief Hare is saying it does not.

**Mr Gary Wilson:** I don't think he's denying what's in the act, is he; that in an emergency—what's called an emergency where the risk of fire is a threat to life—they have access, or they can gain access.

**Mr David Johnson:** So now how we should have interpreted what was being said by the minister was then if there's smoke coming up through the roof, or if there are fumes that everybody can detect, then the Fire Marshals Act gives the right of entry, but under other circumstances, it doesn't.

**Mr Gary Wilson:** Well, I think we just want to say, too, I don't want to lose sight of the practical application here in that in the public hearings we heard virtually nothing as far as fire officers being denied entry. It's just doesn't appear to be a pressing concern in practice. However, we can get a legal opinion on this if you'd like, Mr Johnson, as far as what the act does provide and what circumstances there would be.

**Mr David Johnson:** Sure.

**Mr Robert Dowler:** Jeff Levitt is here from our legal branch.

**Mr Jeffrey Levitt:** My name is Jeff Levitt. I'm a solicitor with the Ministry of Housing, legal services branch.

As was mentioned, the Fire Marshals Act is under the authority of the Solicitor General, so these comments will be, I guess, from a general perspective rather than from the perspective of the actual ministry.

The first clarification I'd want to make is that if you look at subsection 18(1), which you quoted, it doesn't say that there is a right of entry at any time; it says at reasonable times. Although this provision in particular and these types of provisions haven't been under direct scrutiny for constitutionality with the Charter of Rights, all indications are that our aspect of reasonableness is a necessity for entries to private dwellings, given the privacy interest. So the fact that someone may say no when someone comes to the door, it may in fact not be a reasonable time. That's number one.

The second issue is the issue which you had said, what to do when someone, for whatever reason, does say no. I gather what you're really talking about there is the extent and the applicability of the use of force in executing an entry for inspection purposes. I'm not aware of any right of entry for inspection, search, or any purposes, even where they specifically deal with force where the



force to be used is always limited to the minimum force required. As a practical matter, I understand from people using these inspection powers it's sometimes difficult for them to know right on the spot, if someone says no and they're contemplating using force, how much force is justified in the situation, particularly given the fact it may later come to the scrutiny of a judge who may disagree.

1030

In particular, the consequences for the individual inspector are very severe. If the inspector should use more force than is necessary against things and enter, that inspector is personally liable for a trespass. Even worse, should that inspector use more force than is necessary against a person, that inspector may be possibly liable for assault. I have several cases where that's been alleged.

So, I guess it's even where force is specifically allowed, the force is only the minimum allowed in the circumstances. It's often a difficult judgement call at the door of the house to decide how much that is, particularly where the consequences for the individual inspector are very severe should the inspector make a wrong decision. What started out as an inspection ends up either as a trespass or an assault.

**Mr David Johnson:** If you were to begin a new career next week as a member of the fire department—I don't know where you live—where do you live?

**Mr Levitt:** In Toronto, east end.

**Mr David Johnson:** Toronto. Okay—the Toronto fire department, knowing what you do and what you've just said, and you were to come up to a house that it had been reported to the fire department that there may be some problem. There may be a zoning violation, there may be fire hazards, there's reason to believe—no real physical evidence, but hearsay evidence—that this property is somehow being abused and is a danger not only to itself and its inhabitants but other people in the area and you're assigned from the Toronto fire department, went up to the door and knocked on the door and were told that you couldn't have entry into the property, what would your response be at that point?

**Mr Levitt:** I guess, as has been mentioned, it always comes out, the first and foremost consideration always seems to be whether there's an immediate threat to life, health and safety.

**Mr David Johnson:** There's no smoke, there's no visible evidence. It looks like a house, but neighbours have reported that in their view very suspicious things are happening and they've heard rumours that there are fire dangers. There are no fire extinguishers; I don't know, other problems—the construction, maybe, of the unit is not proper, maybe just thin wood or something, very flammable materials. But you can't see that from the outside. When you're standing at the door, all you see is a normal house.

**Mr Levitt:** Not having personal experience as a fire inspector, I can only answer that from the perspective of what I, as a lawyer, see how that situation comes out in the courts. And the first question that the courts always seem to answer is: Was there any alternative to the use of force? One that comes to mind is applying for a warrant

if the danger you suspect is unlikely to manifest itself in the next couple of days. Another one is a charge of obstruction, where it's appropriate.

But I guess the way I would answer that from the point of view of a lawyer is, what were the alternatives to the use of force?

**Mr David Johnson:** Chief Hare is saying that under those circumstances, the fire marshal's office has advised his staff not to use force to gain entry and that they would have to seek a search warrant. I don't know if you'd be prepared to answer, but in a case like that I doubt you'd get a search warrant. From experience in East York, certainly with other departments, without physical evidence—we're talking about hearsay evidence—hearsay evidence that could well be correct, but still hearsay evidence, no judge would give you a search warrant in a case like that.

**Mr Levitt:** That's very difficult to comment on in the abstract because, of course, whether or not you get the warrant depends on how much evidence you have. So it's difficult to make a blanket response.

**Mr Joseph Cordiano (Lawrence):** What we're really saying, I think—if I'm following this correctly—what I would say is that there are not likely to be very many situations where there is hard physical evidence where you have a perfect scenario where there is no doubt that there is a danger.

The fact of the matter is that these things, as has been pointed out repeatedly, look like normal homes. There's not anything from the exterior of the building that would indicate that there's likely to be a danger. You would have to have some sophisticated equipment that would view the inside of that place from a satellite, for God's sakes, to be able to determine that—

**Mr Gary Wilson:** Photo-radar.

**Mr Cordiano:** We'd have to use AWACS planes to determine that the inside of this place is not up to standard.

Furthermore, you would also have to get someone who understood the building code changes or the standards that are being applied who is the average citizen who happened to be a witness who might have seen what was inside that particular apartment, or the tenant himself would have to be a near expert on what changes were made to the building code or safety standards, the features of which he would comment on, knowing that full well this was not a unit that was up to standard.

**Mr Levitt:** Excuse me. As far as the tenant's concerned, if the tenant is concerned, he can, of course, just invite the person in, so I think if the tenant is the one involved, we wouldn't be having this kind of problem.

**Mr Cordiano:** Right, but you'd have to assume that after Bill 120 passes and made it legal, the tenant knew, the tenant, we have to assume, would understand the requirements for meeting safety standards.

**Mr Levitt:** I guess I'm not following that argument because I understood that what we have in mind is a fire inspector who knocks at the door and says: "I would like to come and tell you if your unit meets safety standards. Can I come in?"



**Mr Cordiano:** That makes it worse. I'm granting you what you've said, that the tenant has called for an inspection. Obviously, that is not a problem when the inspector arrives at his or her door. He's been invited to enter.

**Mr Levitt:** Right.

**Mr Cordiano:** No problem, but then—

**Mr Gary Wilson:** There's no problem in the other case either.

**Mr Cordiano:** In the other case, the inspector arrives without any evidence and would have to assume that there is a problem and the tenant would wonder: "Should I let this person in or not, because I don't have a problem. This unit's been made legal. How do I know there's a problem here? Why should there be a problem?" This tenant's going to wonder what's going on here.

**Mr David Johnson:** I think this was raised to illustrate that I personally felt—

**Mr Gary Wilson:** On a point of order, Mr Chair: I thought we were rotating supplementaries.

**The Chair:** I don't know. Mr Johnson has the floor and he agreed for Mr Cordiano to have a supplementary.

**Mr Bernard Grandmaître (Ottawa East):** That was a supplementary to Mr Johnson.

**Mr Gary Wilson:** I know, but then it's our supplementary now.

**The Chair:** If you wish to be on the list, Mr Wilson, I'd be pleased to put you on.

**Mr Gary Wilson:** Excuse me, though, Mr Chair—

**The Chair:** I put you on the list, Mr Wilson.

**Mr David Johnson:** The point I was trying to make was that I certainly, and I think other members of the Legislature, was left with the impression that under the Fire Marshals Act, the fire departments in this province would have—I don't know what the word is—easy entry to inspect all of these units. I have to say, that is not so.

Obviously, if the tenant or somebody consents to come in, then certainly the fire inspector, the building inspector, the property standards inspector, the health inspector, anybody can come in under those circumstances. The history, though, has been that this is not the case. You can say, "Okay, as soon as we make all the apartments legal, that will all change, and everybody will be invited in," but there's—

**Mr Gary Wilson:** I was going to say that's not the history.

**Mr David Johnson:** If you've worked with municipalities, you will know that it's increasingly common for entry to be denied, not only to the fire department—I'm prepared to talk about our fire department because I know that when they do home inspections, first of all, they run into a number of cases where people simply aren't home, there's nobody there and they certainly can't get in if there's nobody there, and they increasingly come across properties where people do not want them in for whatever reason.

People are concerned about their own privacy or they don't want to be bothered or it's not convenient or they

don't want government people poking around for whatever purpose. They feel that they're fairly enlightened themselves and they just don't want the government in, or they may have something to hide, who knows, but it's increasingly common that fire staff are denied entry, that property standards people, zoning inspectors, for sure, are denied—

**Mr Grandmaître:** Building inspectors.

**Mr David Johnson:** Building inspectors, unless there's a permit up on the wall and they have a right to go in during a building period, but if they don't know building is going on and they're just coming to inspect to see if some sort of new building is going on, then even building inspectors wouldn't have the right to go in and they would be denied the right.

1040

The fire chief for Mississauga says that he would like clarification. His contention is that he would like a statement from the Solicitor General saying when fire departments can enter for inspections and have the support of the province of Ontario in that regard, because in his view it is most unclear. He feels that if they're challenged, and the solicitor for the Housing department has mentioned this, constitutionally they would probably lose. Their inspectors are walking on eggs, and I think the solicitor for the Housing department has put this well, that not only the fire department but the individual inspectors who enter are in jeopardy.

**Mr Levitt:** Excuse me. I didn't mean to give the impression that there is something constitutionally wrong with the section; quite the reverse. I said the section as it currently reads, with its built-in requirement of reasonableness of the time of entry, "the time of entry" is objectively, reasonably speaking, not when it suits the municipality. There may be some valid reason why at the time that particular moment isn't right. I guess what I said was the requirement of reasonableness does appear to be constitutionally necessary.

**Mr David Johnson:** I can only say that Fire Chief Hare is not satisfied that the fire department has clear instructions, and he would like the Solicitor General to clarify that. With that, I'll pass it on to somebody else.

**Mr Grandmaître:** Mr Chair, can I be helpful to the parliamentary assistant and also to the solicitor? I'm talking about a legal apartment now and I want to give them an example that exists in my riding.

**The Chair:** I can put you on the list so that may occur, Mr Grandmaître.

**Mr Grandmaître:** Can I be of service to the solicitor and also the parliamentary assistant?

**Mr David Johnson:** That's okay by me.

**The Chair:** No, I think Mr Cordiano has the floor, then Mr Wilson and then you could give your fine example. This room is very difficult in terms of acoustics, so if we can keep the conversations a little lower, it would help.

**Interjection:** Maybe a little shorter too.

**Mr Grandmaître:** Yes, I'll be very short.

**The Chair:** I would like to remind the members of



the amendment we are now debating, which is basically about registration. While I understand the germaneness of this course of questioning, there is a section in the bill that is more directly involved. We'll continue on with Mr Cordiano now.

**Mr Cordiano:** Mr Chairman, I don't mind if Mr Grandmaître wants to give his example as long as I'm still on the list immediately following his example.

**Mr Grandmaître:** Thirty seconds, Mr Chair.

**The Chair:** Then Mr Wilson has—

**Mr Cordiano:** I'm not going to lose my turn, Mr Chairman, if that's what you're saying.

**The Chair:** If Mr Wilson's agreeable, Mr Grandmaître can have 30 seconds to give—

**Mr Gary Wilson:** Oh, 30, sorry.

**Mr Grandmaître:** Yes, 30 seconds. I have a case, Mr Parliamentary Assistant, in my riding where a painting contractor lives in a legal basement apartment. His neighbours were complaining that he was storing paint in his legal apartment, phoned the fire department and advised it of the case, and the tenant asked the landlord, "Should I let those guys in?" The landlord said, "Look, it's up to you; if you don't want them to inspect your apartment, don't let them in," and he wouldn't let the fire department in. That's not an illegal apartment; that's a legal apartment and this guy was storing paint. They wanted to make sure, is this guy breaking any laws? They were prevented from entering the apartment. That's my 30 seconds.

**Mr Gary Wilson:** Thanks very much, Mr Grandmaître. I assume I can answer that, if you're asking me. I'd like to include Mr Levitt just to make sure that we have this right, because I think it is a genuine point. I understand that the tenant is refusing entry to fire officials when they come.

As I understand the law, and this is where I'd like Mr Levitt's clarification—he referred to it and it has to do with the obstruction—the tenant can be charged with obstruction if he refuses entry unreasonably. Is that right, Mr Levitt? Could you clarify that or elaborate on that?

**Mr Levitt:** The offence of obstruction exists where someone obstructs a public official in the course of their duties. Someone may be inclined to say no to permit an inspection even after being told what the reason is.

**Mr Grandmaître:** Do you need a search warrant?

**Mr Levitt:** It depends again upon the reasonableness of the time.

**Mr Grandmaître:** They need a search warrant.

**Mr Gary Wilson:** Let's hear from Mr Levitt.

**Mr Levitt:** It depends upon the circumstances of the entry, but assuming that the fire inspector or the official has the right to enter, then any interference with that would be an obstruction.

**Mr Grandmaître:** They simply received a phone call saying, "This gentleman is storing paint in his apartment." So they wanted to check it out.

**Mr David Johnson:** Is that obstruction if they wouldn't let him in?

**Mr Levitt:** I guess whether or not something is obstruction depends upon two things: It depends upon whether the person who is being obstructed has a right to go in and what the person actually does. But in that case, as I've said, the particular section of the Fire Marshals Act which is under consideration hasn't itself been subject to constitutional scrutiny, but it does talk about the reasonableness of the times. If the times were reasonable, then an argument could perhaps be made. That hasn't been decisively determined yet.

**Mr Grandmaître:** My point was that it's not easy.

**Mr Gary Wilson:** Perhaps I could just conclude my answer, please, Mr Chair.

**The Chair:** The 30 seconds is stretching out.

**Mr Gary Wilson:** That was his question; my answer might be—because there's a lot to be said about this that I think is germane, as you say, to what we're discussing here. If that apartment had been in Mississauga, according to what Chief Hare told us in response to a question, they wouldn't have been denied entry. They've never been denied entry when they've gone to inspect a premises.

*Interjection.*

**Mr Gary Wilson:** You're an exception to the rule, then, of your constituents, are you, Bernard? But anyway, the point is—

**Mr David Johnson:** I suspect that it was in cases of a real visible problem they'd never been denied entry. If you ask the chief in terms of when their fire inspectors go out home to home and try to see problems, do a little bit of—what's the word I'm looking for?—try to identify unsafe conditions—

**Mr Grandmaître:** You meant prevention.

**Mr David Johnson:** —prevention, their prevention work, they'd be denied entry on lots of occasions; every fire department is.

**Mr Gary Wilson:** That's not our information, not from the fire marshal's office, that this is a problem. It's understandable that people want to make sure they live in safe premises. Our contention is that as long as they're legal that will only enhance that procedure, because people will then have no fear to have officials come in to inspect their premises.

**The Chair:** Now we'll go to Mr Cordiano. While this free-flowing conversation is interesting, I'm sure our Hansard reporters are having a very difficult time, so we'll try to conduct ourselves more directly by parliamentary procedures.

**Mr Cordiano:** I want to go back to a point of view that was expressed both by the parliamentary assistant and the minister some time ago, and that is the notion that we're going to treat basement apartments the same as every other place of residence, every other residential unit. I can agree with that if in fact—

*Interjections.*

**Mr Cordiano:** Mr Wilson, are you listening? This is directed at you.

**Mr Gary Wilson:** Is it new jokes?

**Mr Cordiano:** It's new. I was going to say that I can

agree with treating accessory apartments the same as every other unit, every other residential establishment, but every other residential establishment, when it was built, required there to be a building permit for the construction of that unit. At some point, if it was done legally, and I would imagine that every house that has gone up in Ontario, let's just say the vast majority, 99.9%, have taken out building permits for the construction of those premises.

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That having been said, you can't tell me that for every single one of these units that have been created in basements or as accessory apartments, there has been a building permit taken out for the construction of that unit. I think that's a safe assumption. Wouldn't you agree? Yes, you probably would, so let me carry on.

**Interjection:** You can tell by the look on his face.

**Mr Grandmaitre:** You're doing good, Joe.

**The Chair:** Order.

**Mr Cordiano:** That was a very quick response. Thank you.

Now, given that that is the case, it's a leap of logic then to go to the next level of understanding. I'm doing this step by step so everyone can understand. If you have basement apartment units that exist, and we know that they do exist and that they exist illegally, and they are substandard according to the building code, the fire code and any other code you want to throw in there, and furthermore no building permit was taken out for the construction of that unit where in a majority of cases there should have been a building permit taken out for the construction of those units, I think what we're doing here with Bill 120 is saying to people that there's an amnesty around illegal units and that the minister is going to close her eyes and say: "We'll allow these units to exist and we'll worry about whether they're safe or not at some point in the future. For that, we're going to rely on tenants and other parties." I said it would take an AWACS plane to determine what's in that unit, or some other surveillance, observing equipment—

**Interjection:** Photo-radar.

**Mr Cordiano:** Photo-radar, yes; there's an idea—to determine that unit has an unsafe set of circumstances in relation to the building code, the fire code etc.

The point is that the minister has repeatedly said, "We're going to treat these units the same." I fail to understand how you could treat the units the same when in fact they're not the same, when every other unit that was built, or every other residential establishment, required a building permit and was inspected for safety. With these units that exist illegally, you're allowing them to exist without an inspection for safety, so you don't have equal treatment of those units; you have an unequal treatment of units, in favour of those basement units that have been built without due regard for safety.

That's what leads us to conclude that we need this registration to take place and that we need, as a precondition of registration, an inspection to be done. It is logical. We've made our case over and over again, and now what we're facing is this wall of shortsightedness

and hardheadedness, really. What did I call it before? I've called it many things, but let me pick one out of the hat. The one expression I like to use is "coercive Utopianism" because that describes it best. That's the Minister of Housing. She's a coercive Utopian, and I think she's failing to recognize that there is a real danger.

You have not proved to us yet that there is a logical way for people—you are making an assumption that people will come forward, that tenants will be highly knowledgeable of what is safe and what is unsafe. I refute that categorically, because there is no proof.

The minister has made allusion to some educational program that will be undertaken. Well, my God, we try to educate people about a number of things and we don't succeed with regard to a great many items. I'll use this as an example: It has taken almost a decade, if not longer, to change attitudes about drinking and driving and it has taken millions and millions of dollars to educate the public about that. I think that's an overall societal concerted effort at achieving that goal and, as I say, many millions of dollars.

This does not rate on the same level, but its safety aspects are as important. It's critical for people to understand that they may not live in safe units. However, the job of doing that is a huge effort that will have to be undertaken.

This is what leads to this question, and perhaps you cannot answer it; if you can't, I hope the minister will do another appearing act this afternoon, if she is available. I'd like to know what you estimate will be the cost of the educational program you will undertake to inform the public, those basement apartment tenants, how much money will be involved in educating them around the question of what is a safe unit, what will constitute safety requirements, what will be in the safety code, both building and fire. How much of an effort are you going to expend to make that a reality? I've heard this repeated several times, that there would be an educational program undertaken so those tenants would know if they live in an unsafe unit.

**Mr Gary Wilson:** I won't be asking Mr Levitt anything about this one, if he wants to resume his seat. First of all, my impression is that Mr Cordiano has a rather low opinion of even home owners but anybody who wants to put in a second unit or an apartment—

**Mr Cordiano:** Mr Chairman, on a point of order: I'll try and be as polite as I can—

**The Chair:** And your point of order is?

**Mr Cordiano:** You cannot impute motives for what I said and distort what I've said. That would be contrary to our standing orders.

**Mr Gary Wilson:** I'll try to be clearer about what I was saying.

**The Chair:** Mr Wilson will try to be more circumspect in his comments.

**Mr Gary Wilson:** What caused my inference was Mr Cordiano suggesting that people were building these accessory apartments to include unsafe conditions in their apartments, that they had no regard for the safety of their tenants, and I think that is—



**Mr Cordiano:** I did not say that, Mr Chairman. Clearly I did not say that. I said these units were being built without having taken out a building permit, that someone was just putting them up in their basements and constructing them as they thought was appropriate. At no time said did I say that was done intentionally and without due regard for safety.

**Mr Gary Wilson:** Okay. Our point is that certainly when apartments are legalized there will be a strong incentive for owners to come forward to take out building permits to put them in, in the future as well as the existing ones, for both owners and tenants to come forward if they have any problems with the safety.

There is a lot of publicity done now through the fine work of the fire departments in all our communities to make sure people are aware, not only in accessory apartments but in houses in general. People are concerned about the safety, and the publicity given to cases where there have been problems will certainly remind people that they've got to be careful with things like electricity and furnaces.

The whole issue here is to legalize them so people don't have that anxiety about being found out or even being thrown out in the street because they are living in an illegal unit.

As to the safety, the registration sets up a duplicate system that would require people, even where the units are safe, to come forward.

**Mr Cordiano:** We've heard that before. I specifically asked the parliamentary assistant about the educational program, how many dollars the ministry was prepared to spend to educate the public.

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**Mr Gary Wilson:** I'll turn it over to Rob Dowler, who can offer some comments on that.

**Mr Dowler:** Rob Dowler, Ministry of Housing. Just briefly, the Ministry of Housing and the Ministry of the Solicitor General both have mandates for fire safety education. We're in the process of looking at an implementation plan for Bill 120 and looking at specific mechanisms for educating both landlords and tenants as to their obligations and rights post-Bill 120.

We have not yet put a final budgetary number around those estimates. We're still looking at the best way to reach tenants, and different mechanisms will be considered for that purpose.

**Mr Cordiano:** So you have no idea what you can spend?

**Mr Dowler:** Not at this time.

**Mr Cordiano:** I suspect, to do a proper job, it would be in the millions, and of course that won't happen, which gets me back to my earlier point, that you're assuming tenants will be well-informed and knowledgeable about what is safe and what is not. You're relying on their knowledge of the building code, the fire code, what's contained in what, I might add, are very complex documents. Most members of the Legislature are not aware of what's in those documents. It's not something you deal with every day. In order to make these units safe you're going to rely on tenants coming forward. First

of all, they'd have to be knowledgeable about what's contained in those codes to be able to recognize that they don't have a safe unit. I've got to wonder about this. I'm really baffled about how someone is going to be that knowledgeable.

I am quite amazed that that's what the minister is going to rely on. "We'll worry about it later," is what you're telling me. Once Bill 120 passes and is proclaimed, everyone out there who lives in a basement unit will say, "I'm living in a legal unit now, and therefore I don't have to worry about this unit and where I live and being circumspect and the suspicions around whether I live in a legal unit or not." The landlord will say exactly the same thing: "I don't have to worry any more. I've got a unit that's now legal. I'm entitled to have this unit. Why worry about it?" Everyone will forget about it.

**Mr Gary Wilson:** Well, wait now, Mr Cordiano—

**Mr Cordiano:** Let me finish. Everyone will forget about it because that's in effect what you're saying when you pass Bill 120. "They're legal. You're entitled to it. The government sanctions this. Everyone thinks it's marvellous," and everyone will go on with their busy lives.

No one will then concern themselves with some small item such as a smoke detector. There are many homes out there that still don't have smoke detectors, and that's unfortunate. I raised the incident that took the lives of many young children some time ago in eastern Ontario. There you had children who were put in a dangerous situation: There was no smoke detector.

This is what I am trying to tell you, that there are very few incentives after Bill 120 passes for anyone to look into the matter of safety, which requires some detailed probing, which requires great knowledge about what is safe and what isn't, which requires a great deal of effort. I am telling you this will not lead to someone coming forward and saying, "I want my unit inspected." There won't be any reason to do that, not unless the government says, "We're going to suggest or encourage that everyone inspect their unit and we're going to provide for inspection," which is what we're saying. "We're going to make it mandatory that you register and that a unit be inspected."

**Mr Gary Wilson:** In fact it is much stronger than that, Mr Cordiano. There are rights and responsibilities for both tenants and owners of accessory apartments, and Bill 120 establishes new fire code regulations that, as you mentioned, set out the conditions that will increase their safety, that is, smoke detectors, an exit system that takes into account where they are, as well as a fire separation in the walls. Those are the actual safety features that enhance the safety—

**Mr Cordiano:** That's fine. Do you remember—

**Mr Gary Wilson:** Could I just finish? I let you go with your question. The other is what owners are liable for: a \$25,000 fine plus up to a year in jail for contravention of anything in the fire code. I think that's a very strong incentive to make sure your accessory apartment meets the standards set out.

I think there is a great willingness to meet that. People



do want to have safe units, both for the revenue-generating aspect for the owners as well as the peace of mind that comes from having a safe place, but also for the tenants to make sure they have a safe place for themselves and their families. When you put all that together, you've got a very strong system that will make sure these accessory apartments are safe.

**Mr Cordiano:** You're relying on the amendments to the fire code, the penalties in the code. We've raised this question before, but I would truly like to have had the fire marshal before us to have asked him whether these illegal units in contravention of the codes that already exist, that are not up to standard as of today—they're in contravention. They do not meet the safety code. They do not meet the building code. You can't tell me they're meeting the building code.

**Mr Gary Wilson:** Could we just get some clarification from Mr Dowler on that point?

**Mr Dowler:** I think the situation that exists currently is that there is no specific fire code regulation for a converted house. Nevertheless, fire marshals and their assistants do have the ability to lay a discretionary order, based on whatever they consider to be a necessary fire safety feature in the house. But that discretionary order can be appealed and they do feel a certain lack of certainty and confidence in placing orders.

As a result of the draft fire code changes that were presented to this committee, the new draft section 9.8 of the fire code that deals explicitly with apartments in houses, the safety standards would become known and the penalties Mr Wilson referred to in the Fire Marshals Act would become applicable to owners with converted houses. Mr Wilson referred to the fact that owners would be obliged under the regulation to conform to the new standards. They would be liable for a fine of up to \$25,000 and/or a year in jail if they chose not to come forward and conform to those standards.

**Mr Cordiano:** Let's examine that for a moment. If the fire marshal were instructed, before any legislated changes, to go out and issue special orders against these units, he could in fact go out and do that under the existing regulations, the existing fire code requirements, if he knew there was a willingness to undertake such a move and if he had the resources necessary to do that. We've heard from fire chiefs that in order to inspect properly, they would require an enormous number of resources. And of course it requires reasonable grounds; we have to go through that entire process.

Just because you put in penalties and have made changes, my argument is, so what? You've made these changes. Who's going to be aware of them? Very few people will be. When you take out a building permit to build something from scratch, you're required to have inspections; it's mandatory. Here you can have a unit that exists and people are not aware of any of the fire code changes—unless you have a massive publicity campaign to make those landlords and tenants aware of it, they're going to continue to exist without any undertakings by any of those people to go out and make sure they're meeting those code requirements.

I'm trying to tell you that people are going to have to

be made aware. To cover all those units you're going to have to spend a fortune to make those people aware. Furthermore, if you were to try to do that on a direct basis, if, for example, you were undertaking a direct mail campaign, if that were one of the options you'd thought of, you'd have to know where these units exist, know who the landlords and the tenants are, and then mail them a package of information—and hope they would read it, furthermore. Or you could go on a public notice campaign through newspapers or on television or whatever and hope these people would become aware of what's contained in the new code amendments.

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I mean, those things are very detailed. What are you going to tell landlords? "Make sure your unit's up to standard"?

**Mr Gary Wilson:** "Or there's a serious fine if you don't."

**Mr Cordiano:** You can have a public message campaign: "Make sure your unit's up to standard. There's a serious fine if you don't."

Currently, are you telling me that fire departments aren't concerned about those units, that the message would be, "Don't worry about an unsafe unit"? We've seen the consequences of unsafe units. We've seen fires directly related and directly attributable to the fact that they're not safe. The attitude is lackadaisical right now by fire departments: Is that what you're saying? I don't believe that to be the case. I believe they don't have the powers to inspect and therefore they can't do anything about it. You're going to rely on this public education campaign to bring everyone up to speed, hoping they'll get up to speed in time to save lives.

Even if I were to agree with you, you're still going to have a lag period between the time you proclaim Bill 120 and the time that people do become aware of what's contained in the new fire code amendments. That's a dangerous situation that would still exist, even if I were to agree with your approach, and I don't.

**The Vice-Chair (Mr Hans Daigeler):** Mr Wilson?

**Mr Gary Wilson:** Is it my statement now, my time?

**The Vice-Chair:** Yes.

**Mr Gary Wilson:** Okay. Following on what Mr Cordiano was saying, it's fair to ask, if people won't come forward to meet the fire code, why would they come forward to register? There still has to be some incentive there, and it's not clear from this amendment where that would be coming from.

We think that by legalizing accessory apartments, there will be an incentive for both owners and tenants to make sure that their units or their residences meet the standards for health and safety and that this is the way to go.

**Mr Cordiano:** I disagree with you. We're obviously not going to meet with agreement on this. We're going to continue to demand that there be a registration process. As I said to the minister earlier, if I'm a tenant, it would be very simple if there were a registration process in place. I can then make a quick phone call to the municipality, the appropriate department, and check to see if my unit has been registered by the landlord. If that's not the



case, I know the unit is not a legal unit. There's the answer. It's much faster and it's reliable. Then you can rely on the tenant, because he doesn't have to know if his unit is safe. He doesn't have to know anything about the fire code, the building code or all these other codes.

**Mr Gary Wilson:** Mr Chairman, on a point of order. Sorry, Mr Cordiano.

**The Vice-Chair:** The point of order is to me.

**Mr Gary Wilson:** Yes. I just wanted to apologize to him because he was on another flight of rhetoric.

I assumed I had the chance to speak. I was next on the list. I was just saying in response to him—

**The Vice-Chair:** Are you finished with your comments?

**Mr Gary Wilson:** No, I'm not.

**Mr Cordiano:** I was speaking and I still have the floor, I believe, Mr Chairman.

**The Vice-Chair:** I'm sorry, Mr Cordiano, Mr Wilson has the floor.

**Mr Cordiano:** No, I have the floor.

**The Vice-Chair:** No.

**Mr Cordiano:** Wait a minute. I was just speaking, wasn't I? Am I missing something here?

**The Vice-Chair:** You were just interjecting, Mr Cordiano. You were just responding to Mr Wilson.

**Mr Cordiano:** Mr Chairman, you came in late. Let me clarify something. This is my speaking turn. Mr Wilson was answering questions I put to him.

**The Vice-Chair:** Mr Cordiano, you had concluded your comments. That was pretty clear. Then Mr Wilson was given the floor because he was the next on the list, and then Mr Johnson has also asked to be—

**Mr Cordiano:** No, Mr Chairman. I would ask that you review that. We were debating back and forth, Mr Wilson and I. I had asked him a series of questions. I always understood that when the parliamentary assistant was sitting at the front, the parliamentary assistant would be able to answer questions. This was my time and this was my order in the speaking rotation.

**The Vice-Chair:** It seemed to me quite clear that you were finished with your remarks, but if you want to get back on the list, you are always free to do that.

**Mr Cordiano:** I was waiting for a comment and obviously I got one.

**The Vice-Chair:** Mr Wilson.

**Mr Cordiano:** The point we were talking about had to do with—the answer back to me was, what makes me think anyone would—

**Mr Gary Wilson:** Excuse me, Mr Chair. I'm confused.

**Mr Cordiano:** This is ridiculous.

**Mr Grandmaitre:** Why is it such a big deal?

**Mr Gary Wilson:** I just want to finish what I was saying. I think, as I pointed out, that we see, in answer to this amendment put forward by the Liberal Party, that the legalization as we've set it out will do in a much more effective way what is being proposed through the regis-

tration scheme and that we've actually had enough discussion on this. I think there's really nothing more that can be said.

**Mr Cordiano:** Just to finish off my point—

**The Vice-Chair:** Are you now finished with your remarks?

**Mr Gary Wilson:** Yes.

**The Vice-Chair:** Okay, then it's Mr Johnson. Do you want to be back on the list?

**Mr Cordiano:** Yes, sir.

**Mr David Johnson:** There may not be much more to be said, but just to follow up a little more in a question to Mr Wilson or the staff, we've heard that you are intending an education program, although the parameters are not determined yet. Could you tell us, in terms of following up and monitoring the success of the program, do you have any thoughts on that? Is there any program in terms of being in touch with municipalities and determining the success of the education program? Can you give us any views on that?

**Mr Gary Wilson:** Just in a general way, as far as education goes, we all live somewhere and I think we all are aware of the need to make sure our places are safe. We can all understand too that if you're living in a unit that is illegal, you're going to have a strong reason not to come forward even to ask about things that are unsafe. In other words, there is, I think, in most people a strong incentive or push to make sure they live in safe circumstances. I know that, and I would suspect you do and most home owners do. Again, we're looking at these accessory apartments as being no different from other residences, that the people who live in them will want them to be safe, the people who own them will want them to be safe, and the community has an interest in making sure they're safe as well because it provides for safe residences as well as you don't run into problems.

For all those reasons, there is I think a strong system, say, of informing people that they have an obligation to make sure their places are as safe as possible. I'll let Rob, though, add to that in a more technical way perhaps.

**Mr Dowler:** Just as I indicated before, we are still in the process of refining our communications and monitoring plan for post-Bill 120, but I can tell you that the kinds of things we would be looking at in terms of monitoring the extent to which there is compliance with the new fire code standards would include a pretty close watch of building permits which are issued for the purposes of upgrading or meeting fire code standards—we do monitor those on a regular basis—and our regular liaison with enforcement officials, associations, the Ontario association of building officials, local building officials' organizations. The Ministry of the Solicitor General has ongoing liaison with the fire service through the office of the fire marshal and the impressions that they gain from investigating fires and speaking with staff on a regular basis.

I should also point out on that front that it's my understanding that the office of the fire marshal is investigating any fire that does occur in a basement apartment, and has been doing so for the last couple of



years since we've actually been in the apartments-in-houses issue. So they are actually out there on the scene looking at causes of fires and that sort of thing when a situation does occur. So I guess looking at fire stats, looking at building permit stats and our ongoing liaison with municipal officials would be our main monitoring mechanisms.

**Mr David Johnson:** Okay. I'm going to come back to the monitoring in a minute, but just to address a little bit of a comment, in this day and age, if you talk to municipalities, there are many people who attempt to do construction without a building permit, in the first instance, or attempt to go beyond what their building permit has been issued for. So if you think that everybody is automatically going to come forward and ask for a building permit or follow exactly the rules laid down in each municipality, then I think you're going to find you're mistaken, and sadly mistaken.

I think the same sort of logic applies in terms of people who live in apartments, as Mr Cordiano has indicated, that have not been the subject of a building permit in the past. The house has, but the apartment may indeed be put in with flammable material, or it could be any number of violations, but that's not visible from the outside. But the reality is that many people do not want to be associated with government.

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Now, if you say, "Will some people come forward and ask to be inspected?"—absolutely. Some people will come forward; no question about it. I guess the question is, what percentage will come forward, and what percentage will not come forward for various reasons? One may be because they're not aware of their rights, because even though you have a well-intentioned education program, it may not sink in. It definitely won't sink in. I mean, you surely don't have enough money to convey this information to every resident of the province of Ontario. That's a mammoth chore. Even with a lot of free publicity in newspapers, it won't happen. A lot of people will be aware; a lot of people won't be aware.

Even with those people who are aware, a lot of them will choose not to get involved. They don't want the hassle of government. It may surprise you, but in this day and age a lot of people distrust governments of all types. You know, when somebody knocks on the door and says, "I'm from the government and I'm here to help you," there is immediate scepticism on behalf of many people, even though you may say: "You're legally entitled to stay here. They can't kick you out." But even if they understand all that, there's still the question that in some cases it may be cheaper to close down the basement apartment and dismantle it where it doesn't comply than to pay the money to make it comply. A lot of that depends on how tough your standards are going to be.

I can tell you that in my municipality in East York there are many senior citizens who are renting out. They live in the house. They live upstairs and they rent the basement. That seems to work out okay. In 90% of the cases I'm sure there's no complaint. The neighbours say, "Live and let live," and no problems. If there's some turmoil in the neighbourhood, then the municipality may

be invited in to inspect, but the chances are that many of them don't meet all the regulations.

Those seniors are on a very thin income. They're sort of asset-rich with a house but income-poor, on a very minor pension or with not much money coming in. So if they're going to be asked to pay for an upgrade to meet regulations, my guess is that at their stage in life many of them will say, "I'm sorry: (a) I don't want the hassle and (b) I can't afford it, so close down the apartment." I assume there's nothing preventing them from doing that. We're not forcing them to have a basement apartment if they don't want one, I assume. I don't see it in the act. So that will happen in some cases, and tenants may be aware of that.

But I think, number one, there will be a lot of tenants who don't want to be associated with government, don't want the fire department in, don't want anybody in: don't want municipalities in, don't want provincial governments mucking around in their lives, federal governments, anybody. So you'll find that you'll be turned down.

In terms of the monitoring, we know there are somewhere—what is the government statistic, that there are over 100,000 or 140,000? What's the number you recognize now?

**Mr Gary Wilson:** We think it's somewhat over 100,000.

**Mr David Johnson:** Over 100,000. You know roughly where they are. You know how many roughly in each municipality, to a certain degree, I think, to put that number together.

**Mr Gary Wilson:** Yes. They're all across Ontario.

**Mr David Johnson:** They're all across Ontario, but you know municipality by municipality, ballpark.

As part of the monitoring process, have you looked at or have you decided to check with municipalities and determine what percentage of those basement apartments, let's say one year after implementation of Bill 120, have been inspected, just as an example?

**Mr Dowler:** As I indicated, we would be looking at building permit evidence. So we have a general sense—and I should qualify that and say it's a very general sense—as to how many units exist out there today. We would be looking at the number of building permits that are issued for the purposes of upgrading and then we would take a look at what percentage of the total universe is coming in and seeking a permit.

Now, we wouldn't expect 100% to come in the first year. Many units, I think, from the impressionistic evidence that's been offered to this committee and to other proceedings, probably do meet standards today. Most of them have smoke detectors and many have proper exiting and fire separations. So we wouldn't expect 100% of the units to come forward in the first year, but we would expect there to be a significant number coming forward and seeking out permits.

**Mr David Johnson:** When you're looking at the building permits, how are you going to differentiate between any other sort of activity and the building permit that pertains to a basement apartment? Are you going to be asking municipalities to somehow—have you done



that or are you going to do that? I mean, how would you know one from the other?

**Mr Dowler:** Municipalities do currently fill out a survey for Statistics Canada on building permits, and in that survey there is a category of construction activity called conversion. Statscan has been trying to refine that category down so that it would include creation or upgrading of a basement apartment. It's not a perfectly clean category, but relative to some of the other numbers that we've got on this segment of the stock, it's a start.

**Mr David Johnson:** Do I take it from that then, you have no plans at present, other than through the collection of Statscan information and its interpretation of conversion, to directly contact the municipalities to determine first hand from them how many of their apartments have been inspected?

**Mr Dowler:** As I indicated, our plan is yet to be formulated. We're still in the process of drawing it up, but I think our intention at this time is to liaise on an ongoing basis with municipal enforcement personnel: building officials, fire officials and property standards officers. So, yes, we would want to be contacting them and getting their sense as to whether they think a significant number of people are coming forward and making sure these units are safe.

**Mr David Johnson:** You said you wouldn't expect them all to come forward within a year.

**Mr Dowler:** No.

**Mr David Johnson:** I don't know if this is a staff question or a question for Mr Wilson. What percentage would you forecast and what percentage would you think would be suitable, let's say, after one year or after two years, that would come forward and would be inspected, of the basement apartments?

**Mr Dowler:** At this stage of the game, I can't answer that question. As I mentioned, we're still in the process of finalizing our monitoring plan. I would think that that particular number would vary dramatically from city to city, depending on the age of the building stock, the type of building stock. In the city of Toronto, where you're dealing with older buildings, smaller lots, constrained exits—although it's probably a bad example because the units have been permitted there for a considerable period of time—you might expect more people to come forward than, say, in an area like Mississauga where you have a significant number of raised bungalows, where you can get proper exiting relatively easily. Stock is newer so the chances of there being a construction that involves drywall or some proper fire separation is greater. Use of smoke detectors has been encouraged through a municipal bylaw for a number of years, so you would expect there to be a higher likelihood of proper smoke detection in the unit. So the number that you're asking me for, I think, would vary significantly from place to place.

**Mr David Johnson:** All right. I'll grant you that. That's quite likely. Across Ontario, as an average, what would you expect?

**Mr Dowler:** Again, we haven't gotten to the point where we have that number refined. I don't know if we ever will get to a specific number. I don't think there's

that level of scientific precision that's really possible in this particular area.

**Mr David Johnson:** No, I don't think it is, but I'm just wondering, in the mind's eye of yourself and I suspect Mr Wilson would have an answer for this even if staff aren't able to, are we looking at 20% of the apartments, let's say, being inspected after a year, two years?

**Mr Gary Wilson:** I'm not sure. I would think it would be similar to regular homes with people coming forward, but the point is, now, there's a disincentive to come forward because these are illegal. So once they're made legal, they'll be the same as any other residence. Again, you have to look at the circumstances. All residences are built up over time so they also have varying standards.

**Mr David Johnson:** The reason I ask is, as Mr Cordiano has pointed out, the vast bulk of these, in all likelihood, have never been inspected because, as you point out, up to this point they're illegal so how could they have been inspected, in a sense? Given that they're not inspected and given your feeling that tenants would come forward, I just wondered if you're prepared to give me a kind of range as to your and the government's expectation of, let's say, within two years, what percentage of the units would be inspected. I don't expect that to be scientific, but I'm just wondering if you're thinking 25% or 75% or 90%, or what kind of ballpark are we talking about here?

**Mr Gary Wilson:** No, I can't say at this point.

**Mr David Johnson:** You wouldn't know if it would be over half or less than half, even to that extent?

**Mr Gary Wilson:** I think there are also the people who will consult with the owner and work it that way, for smoke detectors, for instance. That would be an obvious one, that they'd make sure they were there and check on the walls. Some of this could be done between the owner and the tenant. But no, I can't say how many—

**Mr David Johnson:** You just seemed so optimistic that tenants would come forward that I'm a little surprised here. I thought you would say for sure that over half would be inspected. Whether it's 75% or 90%, I wouldn't be too sure, but now you seem to be a little more tentative.

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**Mr Gary Wilson:** It's just because, as you say, it's hard to predict what the takeup will be, but the major point, again, is that they now have the security that they can come forward without losing their residence. But just having that doesn't mean they're living in unsafe conditions now. You can say that the way they were built, since they didn't have building permits and never inspected, they are unsafe, but there's nothing to say they are unsafe either. It's just that what can be said is that people are living in illegal circumstances now.

**Mr David Johnson:** Would you agree with me that—

**The Chair:** Mr Cordiano, a point of order.

**Mr Cordiano:** A point of whatever.

**The Chair:** There aren't points of whatever, but points of order.



**Mr Cordiano:** It's been stated in this committee that half the units are unsafe, half the existing illegal units.

**The Chair:** It's not a point of order.

**Mr Cordiano:** No. I said "a point of whatever." I thought that was stated in committee hearings.

**Mr Gary Wilson:** If you could bring that forward, we could discuss it as a point of—

**Mr David Johnson:** If that's true, if there's some—

**Mr Gary Wilson:** Wait. That's a point of order, not—

**Mr David Johnson:** I put the word "if" in front of it. Would you agree with me that if, say, only half of the units were inspected, given that we don't know which half are unsafe and which half are safe, or which half meet the regulations and which half don't, but if that were true and only half the units were inspected over a period of time, say, two or three years or something like that, that would not be a successful program, would it?

**Mr Gary Wilson:** It's into some speculative bog, I would say, Mr Johnson. The point is to make them legal. I don't really see what this has to do with the legalization of them, which is what we're doing through the legislation. What it does is give the residents and the owners security of their being legal, that they now have standards that apply to them. At least they know what they are and they're not going to be, in the case of the residents, thrown out, and, in the case of the owners, that they have a guaranteed unit where they meet the standards.

**Mr David Johnson:** Maybe this, then, gets to the heart of the reason. You're saying that the reason is to make them legal. I was under the assumption that the real reason driving this was for safety, to promote safety in the apartments. Am I wrong? Is that not the government's hope?

**Mr Gary Wilson:** That flows from their being legal. That's the idea, that they'll become safer because they're legal.

**Mr David Johnson:** That's why I'm asking the question about monitoring and inspection.

**Mr Grandmaître:** On a point of clarification—no?

**The Chair:** No.

**Mr David Johnson:** If you make them legal but they're not inspected, then how does that guarantee any safety, if they're not inspected for safety purposes? You seem very tentative about what number would be inspected. That's what's confusing me.

**Mr Gary Wilson:** I based it on the experience with other residences. You'd agree that after it'd been inspected, a new place with a building permit, adjustments can be made, alterations, that are going to be unsafe, or batteries in smoke detectors run out. It's something you've got to keep up all the time. At least what this does is make sure that the people who are living in accessory apartments know that the residence they're in is legal and they have access to the kind of inspection that the rest of us enjoy.

**Mr David Johnson:** Is it your view that even without an inspection from the fire department, because these apartments are made legal through Bill 120, people will

upgrade them without any further direction, I guess, or assistance from civic officials such as the fire department?

**Mr Gary Wilson:** I'm sure that will happen, just as it is happening now, I would think. The important point is that they are illegal and everything that is happening now is done in a cloak of secrecy and insecurity.

**Mr David Johnson:** I've got a note here in front of me from the honourable member. It says—is that what the minister is saying?

**Mr Grandmaître:** Yes.

**Mr David Johnson:** They're made legal—

**Mr Grandmaître:** Illegal.

**Mr David Johnson:** Oh, illegal—is that what that word is?—because of zoning, not safety. What does that mean? I don't even know what that means.

**Mr Grandmaître:** What the minister has been saying in the House is that most of these apartments are illegal because of zoning. That's what my note said too.

**Mr Cordiano:** Without any regard for safety or codes.

**Mr Grandmaître:** Do you agree with me that this is what the minister is saying?

**Mr Gary Wilson:** In the first place, I'm not sure—we're getting a bit far from the amendment you were talking about.

**Mr Grandmaître:** We're talking about safety and zoning and registration of these apartments.

**Mr Gary Wilson:** That's different from the question you raised.

**Mr David Johnson:** Then can I get back to another question? I'd like to ask the lawyer, the solicitor, another question pertaining to the registration, if I can. This pertains to a matter I raised earlier this year. There was a response issued by the Ministry of Housing on five questions, I think, that I had raised. One of them had to do with the concern of the association of municipalities with regard to liability.

Part of their concern on liability is that if there's no registration process, and that's the amendment being put forward here today, that we have a registration process, and they're not aware of the apartments yet the apartments are made legal, if there is, unfortunately, another fire and another death, what sort of liability would the municipalities assume?

Putting it from their point of view, these are now legal entities within their jurisdiction. They have responsibility to ensure safety. They have responsibility if there isn't safety, I guess, to inspect etc and ensure that there is, within their jurisdiction, but yet they are saying clearly that they don't have the ability to get in and inspect, and consequently, if there is a fire and a death and if they were sued because they didn't pursue it and ensure there was safety, they're concerned about liability.

The response I got in terms of that question I don't think answered, certainly, my question. I wondered what your response is today.

**Mr Levitt:** That question is somewhat difficult to



respond to because it's a very general aspect of liability. In particular, what makes it difficult to respond to is that the only change as a result of this will be removal of a zoning problem with the apartments. I imagine that currently there are also a number of units like that, that while complying with the zoning, do not comply with the other safety regulations. To my knowledge, there's never been any municipal concern raised about that exactly similar situation in the past, so it's not completely clear to me why the same situation that has existed for quite a while and will exist in a slightly different form should have any larger liability. Because it's not more specific on that aspect, I find it somewhat difficult to provide an answer.

**Mr David Johnson:** One angle at that may be that the other structures that are in a municipality would have been inspected through the building inspection process, because if you put up a house or a plant or an office building, it has to be inspected through the building code. I would assume that's true in just about 100% of the cases, but these apartments will not have gone through any inspection process up to that point, so that will be one major difference. In the eyes of the law now, both the new house that's been thoroughly inspected by the building code and the new office that's been thoroughly inspected, or a new restaurant or any other building that's been thoroughly inspected, will be on an equal footing now with a basement apartment that has never been inspected.

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**Mr Levitt:** I guess all I would say is that using your example, even before this bill other types of premises that will be unaffected by this bill may also be built without a permit and have been for quite a while, and I would imagine that whatever liability concern is being raised here has existed for quite a while in various ways. It's just not clear, because it's not being specific about how a situation which seems to have existed for quite a while and will possibly exist in another way—what the difference is. Therefore, it's hard to—

**Mr David Johnson:** Can I suggest one difference? One difference would be that if there was another structure that was built without being inspected, it would have been built illegally and not sanctioned by the provincial government. This government, through this bill, is not sanctioning all buildings that have been built without a building permit; it's only sanctioning accessory apartments that have been built without a building permit. So those other structures would not have the sanction of this government. That, I would think, would be one difference. Whereas accessory apartments would have the sanction of and would be blessed by the government, and the authority is now down to the municipality to ensure safety, the other units are clearly illegal still in the eyes of this government as well as the—

**Mr Levitt:** Excuse me. What I was talking about was another use that is legal according to the zoning; for instance, an office building that is zoned for an office and it is an office, and it may have been built with a permit but over time it's deteriorated and now it's turned into a complete fire trap. That has been around for a while and

there's some problem with it. I'm not sure what the liability of the municipality would be there, but I'm not sure it would be any different here, if you see what I mean.

**Mr David Johnson:** All right. There is that little bit of greyness. The municipality does have the requirement to inspect, I guess, and I think all fire departments have some kind of inspection routine, but at least that building that you're describing would have gone through the rigours, originally, of a building code inspection. I suppose the day after that inspection there could be some deterioration, but at least it would have gone through those rigours, whereas this basement apartment or accessory apartment has not gone through any of those rigours. A municipality, knowing that full well, it could be argued, would have an obligation to somehow enforce that original inspection, but if they're not aware of the unit or not able to gain entrance, they would not be able to do that.

**Mr Levitt:** Again it's hard to pin down what the concern is. A similar situation might be a use that's unlawful. The municipality itself amends its zoning bylaw to permit uses which hadn't been lawful before. The municipality amends the zoning bylaw and makes those uses lawful, which probably happens frequently. I'm not sure what the municipality's feeling is towards ensuring the safety of those buildings now, but it doesn't seem to have been that much of a concern.

**Mr David Johnson:** I guess you would at least agree with me that it's not inconceivable that if there was, in a basement apartment in the future, if Bill 120 went through—let's say basement apartments and accessory apartments were made legal. It's not inconceivable that there could be a lawsuit, in the event of an unfortunate incident, against the municipality. The question would be whether it would be successful or not.

**Mr Levitt:** I guess anything is possible, but on the other side there has never been, in those particular types of circumstances, any type of lawsuit, and there recently was one case where a municipality was sued for something it did construction-wise 20 years ago. The landlord was also sued because the condition over the 15 years had deteriorated, but there was no lawsuit against the municipality or really even suggestion that the municipality had any duty over the 15 years. So I guess while anything is possible, there certainly is nothing which indicates any evidence of probability.

**Mr David Johnson:** I guess we're going around the mulberry bush now, but at least in that case the building was inspected in the first instance, whereas a great number of these apartments would not have gone through a single inspection, ever. I'm still worried about that. I think it puts municipalities in a bad case.

Let's look at the other side of this coin. As Mr Wilson is indicating, although he won't give us any numbers, any percentages, he's still optimistic that a lot of people will come forward and ask for inspections. Chief Hare, from Mississauga, said that in his estimate, I think it was something like 87 person-years would be required to inspect each and every basement apartment in Mississauga. I don't think there's going to be any extra



money to assist in that inspection, from what I recall, and I don't see the parliamentary assistant jumping in here to offer any money at this point.

**Mr Gary Wilson:** We expect there will be some more through the enhanced value of houses, that there should be some—

**Mr David Johnson:** Oh, I see, a tenuous minor investment.

**Mr Gary Wilson:** Well, no. The safety of the units too: It is very costly in both human and economic terms to put out fires, so that is one thing that will be saved.

**Mr David Johnson:** The other aspect of this concern with regard to liability by municipalities is that if a number of people do come forward, and I assume we're probably all hoping this is the case, but they're not equipped, they're not staffed today to inspect them all bang on the spot—as I mentioned the other day, and I may be wrong on this, my guess is that Mississauga, for example, through the expenditure control program and the social contract probably lost somewhere between \$5 million to \$10 million right there. They're having to deal with new realities, so they're not going to be able to go out and hire, and indeed if they did hire a whole lot of new people, they wouldn't be trained.

If there is a considerable backlog for inspection, which may represent some significant proportion of these apartments, and the municipalities take quite a while to get through them, inspecting them one by one, and in the interim there is a fire and an unfortunate tragedy in one of the apartments that's in that backlog, but unfortunately just due to limitations in resources the municipality couldn't get around to inspecting, and before it did there was a tragedy in a fire, where would the municipality stand from a liability point of view in that case?

**Mr Levitt:** Again that's difficult to answer in the abstract, because it depends on factors such as the duty the municipality owes and in particular whether the municipality has taken what's known as a policy decision setting out the nature and extent of its enforcement action.

One relevant factor, though, is that last month the Supreme Court of Canada handed down two judgements which most people look at as somewhat reaffirming the ability of public authorities in appropriate cases to make policy decisions as to how they're going to order and carry out these functions and do it free of liability.

The answer to that question depends on a lot of specific factors, but there is the ability for the municipality to order its own affairs through policy decisions in appropriate cases. We recently had two decisions from the Supreme Court of Canada which, if anything, reaffirmed the ability of the municipality to see what has to be done, to see what it can do and for the municipality to decide the best way to do that.

**Mr David Johnson:** This liability issue is one that the Association of Municipalities of Ontario has raised. You've said in the abstract it's difficult to comment, which would lead me to believe that there are circumstances where they may be liable and other circumstances where they may not be liable. I wonder, what comfort

can we give to the association of municipalities and to municipalities across Ontario? Are there any kind of parameters at all that the Ministry of Housing could provide which would say that as long as you live within these parameters, you will be okay, or you should be okay?

**Mr Levitt:** Since it's hard to give individual legal opinions to the municipalities, fortunately as I mentioned these two judgements of the Supreme Court of Canada came down just last month. Both are very short. Both look at exactly the issue you're talking about. It was in the context of a different activity, road maintenance, but I would suggest that they look to those judgements and that they provide quite a bit of guidance and that they'd say exactly what the ground rules are.

**Mr David Johnson:** The Ministry of Housing is not planning to issue any assistance to municipalities in this regard, then, directly?

**Mr Levitt:** Maybe I'll defer to Bob Dowler for that.

**Mr Dowler:** Yes, I can maybe answer that. In terms of financial assistance for the purposes of carrying out enforcement activities, no, our ministry doesn't handle that. That would be the Ministry of Municipal Affairs through its conditional and unconditional grants programs.

In terms of information to municipalities, I indicated that through our branch we do actively discuss these matters with enforcement officials and we would continue to provide them with advice and point them in the direction of certain statutes. I think Jeff was indicating that it's very difficult for us from Toronto to dictate or suggest how a municipality in another part of the province might carry out its enforcement program or what level of service it might provide through that program.

We can suggest certain general things that are indicated by the cases; for instance, that a municipality, in order not to incur liability, should make its policy decisions known in public as to what level of service and what level of enforcement it intends to carry out. I think that's the nature of Jeff's information that was provided.

1150

**Mr David Johnson:** Sorry; I was interrupted a little bit. When you were indicating that it's difficult to dictate policies from Toronto, a smile came to my face because that's what this whole bill is about in terms of dictating accessory apartments right across Ontario. I found that a little bit amusing and then I lost the thread of what you were saying. In terms of the liability issue, I don't think they're looking for anything to be dictated across the province, but they're looking for some guidance. What sort of guidance would you give them? Is there any specific guidance, suggestions, helpful hints?

**Mr Dowler:** I was not referring to the dictating of policy principles from Toronto. What I was suggesting was that we would not try to offer legal opinions from Toronto as to how a certain municipality's enforcement activities should be carried out, that the case law always depends on the specifics of the municipal circumstance and the matters in which their budgetary policy discussions are carried out.



The kind of advice that we would offer, in response to your question, would be in the nature of suggesting that they look at the case law, and we could certainly, as Jeff has just done here today, suggest that there are relevant cases their solicitor should turn their minds to. But we would not suggest to a municipality that a certain number of staff should be allocated or a certain level of coverage should be provided. That depends on the policy discussions that occur on the floor of council and the extent to which those are made public and made known through due process.

**Mr David Johnson:** I think it was the Brampton case back many years ago that struck fear into the heart of every municipality, maybe in the world, I don't know, but certainly in Ontario. I don't know if that's being dragged on in the courts now or whether it finally did get resolved, but do you recognize the concern of municipalities with regard to liability?

**Mr Dowler:** Absolutely. I believe the—

**Mr David Johnson:** Here we're dealing with lives. When it's unclear how many of these units will actually be inspected for safety, the fire chief of Mississauga, if you look at his quote in his first deputation, and only deputation I guess, to this committee, said if he's not able to get in and there are more apartments that are built, then there will be more tragedies and more deaths. That's almost, I think, a word-for-word quote. So there's a real fear of not only the tragedy aspect but the liability aspect to this.

**Mr Gary Wilson:** You said he said if he's not able to get in, did you?

**Mr David Johnson:** Yes.

**Mr Gary Wilson:** Again that's the whole thrust of the legislation, to set the conditions where they can, and as you know, he also said that he's never known of a case where they were denied entry when—

**Mr David Johnson:** We've gone around and around on that one. We started out at about 10 o'clock this morning on that, and he still says that he cannot get in unless there is visible evidence of some problem. Other than that, unless somebody opens the door and allows them in, he can't get in.

**Mr Gary Wilson:** Which is the vast majority of cases. The fire marshal has said that only rarely are they ever denied entry, and we know that there are in the—

**Mr David Johnson:** That's why I asked you how many would be inspected, and even though you were so optimistic about everybody allowing people to come in, I've been unable to wring an estimate from you of how many of these apartments would be inspected. I would think, with the theory you have on this, that you would think that within the first couple of years well over 50% would be inspected, but you're very tentative in terms of going on the record on that.

**Mr Gary Wilson:** It is a hard thing to predict, but the thing is that having security of tenure they will know at least that they can be inspected; that is one thing. Then there are things that people can do on their own just like any other home owner. As has been pointed out, build-ings decline even after initial inspections and adjustments

are made, alterations, rec rooms, for instance, and you can't tell how safe they are. But everyone is intent on living in safe circumstances and to throw in an illegal aspect only gets in the way of making the residences as safe as possible.

**Mr Cordiano:** I note that there is very little time, but I would like to discuss an area, perhaps this afternoon, that we have raised with regard to insurability of the units. The Insurance Bureau of Canada has—actually, I would ask first if the ministry has had any discussions with the Insurance Bureau of Canada regarding insurability, in light of the changes to Bill 120.

**Mr Gary Wilson:** On a point of order, Mr Chairman: Could we vote on this amendment now then, because you seem to be going into a different section.

**Mr Cordiano:** No, this has to do with accessory apartment registration with regard to the safety features of it. It ties in with the questions Mr Johnson has been putting forward with regard to liability for municipalities.

**Mr Gary Wilson:** Is that your ruling, Mr Chair?

**Mr Cordiano:** I think it's pretty much on the subject matter we're dealing with regarding the section we've been talking about with regard to registration. It ties very much into the question of insurability.

We've been told by the Insurance Bureau of Canada that to have a registration and inspection system would certainly go a long way to alleviating the concerns it has around insurability of the unsafe units that now exist, and after Bill 120 is passed, they would I think include in their application forms a section for disclosing the existence of these units.

We've suggested and our leader has suggested that you make this a requirement and I was asking if the ministry had had any discussions with the Insurance Bureau of Canada in that regard. Perhaps we could take it up this afternoon because we've run out of time.

**The Chair:** Am I hearing a motion to recess?

**Mr Cordiano:** Yes, it's 12 o'clock.

**The Chair:** It being pretty close to 12 of the clock, we will continue this episode this afternoon at 3:30 or following routine proceedings.

The committee recessed from 1156 to 1552.

**The Chair:** The standing committee on general government will come back to order. We are continuing the clause-by-clause examination of Bill 120, An Act to amend certain statutes concerning residential property.

When we completed this morning's session, we were discussing, as members know, the Liberal motion, Mr Cordiano's motion, numbered 6 at the top, 81.2. That motion has been split in half. The first part of it is carried. Mr Cordiano had the floor.

**Mr Cordiano:** I believe that this morning I had asked the ministry people, regarding the question of insurance, if they had made any inquiries or had any discussions with the Insurance Bureau of Canada regarding the insurability of the units once Bill 120 was enacted. So I might start with that, with regard to the question of insurance, if in fact the ministry has been in communication with the Insurance Bureau of Canada or anyone else



in the insurance industry. Would anybody like to answer that?

**Hon Evelyn Gigantes (Minister of Housing):** Would you like to speak to that? You should identify yourself.

**Mr James Douglas:** James Douglas, Ministry of Housing. The Ministry of Housing has been in touch with the insurance industry over this issue. Discussions have begun, but nothing has really been worked out as yet. So hopefully we can report back at a future date.

**Mr Cordiano:** Have you just started discussions with them?

**Mr Douglas:** That's correct.

**Mr Cordiano:** Okay. That's very encouraging.

**Hon Ms Gigantes:** You might report what you've learned.

**Mr Cordiano:** It's encouraging to know that perhaps our suggestion was taken up and that it is not born out of any interests other than to ensure that we're moving in the right directions.

With regard to insurance, it is certainly a matter that I feel is important to clarify. Will you deal, then, with this matter during the time that you present regulations and will there be some consideration for that process to include whatever amendments you are making in that regard via regulations, or is that something that we will not be able to deal with during the course—obviously we won't—of the clause-by-clause consideration? We will not have any further information from you on that matter.

**Hon Ms Gigantes:** There are two possible points of interest, as I understand it, in your suggestion. One is a point of interest that would connect the process of registration with the verification insurance.

As you understand, we don't feel that a process of registration, in and of itself, is a useful addition to Bill 120, for reasons which we've spoken to before but which I can underline again. We're particularly concerned that blanket illegality, which currently exists for over 100,000 units in this province, be removed as far as zoning is concerned and then reapplied because of a proposal to institute a new system of qualification, which has nothing to do directly with health and safety, called registration. You are trying to connect elements of safety and requirements for safety to approval of registration, if I understand your proposal.

If I could just take a moment, when we look at a situation, for example, in a municipality such as Mississauga, which has often been discussed in this committee, the estimate that seems to be agreed upon is that there may be between 10,000 and 15,000 units of apartments in houses in Mississauga which are currently illegal as far as zoning is concerned.

If the proposal that, as I understand it, you are putting forward—I haven't seen an amendment to this effect, but if the proposal which was floated by your leader the other day is one which would say that a unit, in order to be legal in all senses of the word, must be registered and, in order to be registered, must be pre-inspected, and associated with that pre-inspection would be the validation of insurance, then we would be in a situation where in that particular municipality there would be a situation in

which all 10,000 to 15,000 would be illegal until that total process had been passed through.

If we took an estimate of the current inspection capabilities within the municipality of Mississauga and we estimated how long it would take to pass 10,000 to 15,000 existing units through that process and what it would cost, the length of time would be very long, and the cost has been estimated at somewhere close to \$65 million.

The reason that would be necessary is a proposal that everything remain illegal. Having lifted the illegality attributable to zoning, we would now transfer those units into another state of illegality until this whole process had been completed. We have suggested that this is not either a practical or desirable process and that it does not achieve the end, which is to immediately place all existing apartments in a state in which, except for health and safety matters directly, they could be categorized as legal and the question of their status would not be challenged until the standards were challenged.

**1600**

We believe very firmly—I firmly believe personally—that the most efficacious way of achieving the desired goal, which I think we all share, which is to have health and safety standards met in existing units—because we're not talking here about new units; I think we're finally agreed about the process for new units—is to have the situation, one, in which we provide both the owners and the tenants with—how can I say it?—the freedom, the right, to step forward and say, "I'd like to know what would be required here, if anything, to make sure that we are meeting code standards both in terms of the building code and in terms of the fire regulations."

Any other method, I suggest to you—well, there are two other possible methods. One is, as I say, to have a situation in which you'd transfer the cause for illegality from the zoning issue which now exists to one of registration which you would create and everything would remain illegal until it goes through the process that you've proposed, or you would do a house-to-house search, in effect. I don't think that's what you're looking for; you're not suggesting that we go house to house. But I suggest to you, unless we do that and unless we immediately provide a process of immediate inspection for each and every unit, what we're doing is maintaining a state of illegality. We've just changed the reason for the illegality. I suggest to you very strongly that this is not going to achieve the purpose that we're after.

Can I add one further thing? I think that through the issue of insurance, what you're trying to engender is a stiff penalty for owners who do not take the steps required to meet health and safety standards. I want to remind members that under the Fire Marshals Act the fire code requirements have very stiff penalties attached to them. They can range as high as fines of \$25,000 per day and jail terms.

**Mr Cordiano:** Let me respond to that by saying, firstly, I'd like to know where the \$65-million figure that you threw out with regard to inspection came from.

**Hon Ms Gigantes:** James could speak to that.



**Mr Cordiano:** And how that was estimated and whose estimate that was.

**Mr Douglas:** Point of clarification: The \$65-million figure would be for the approximately 100,000 units in the province.

**Hon Ms Gigantes:** Sorry about that.

**Mr Douglas:** If you extrapolate to the 10,000 estimate for Mississauga, that would be \$6.5 million to inspect 10,000 units in Mississauga. That would be, of course, under a registration scheme, assuming that you could identify the units. If many more inspections were needed to actually identify the units, the figure would be higher than \$6.5 million for Mississauga. That \$6.5-million figure was developed based upon information submitted by the Mississauga fire chief, that on average it would take approximately two staff days per inspection when you look at the need for an initial inspection, possible follow-up inspections and the occasional prosecution.

**Mr Cordiano:** So what you're telling me is that each and every inspection would cost on average \$650?

**Mr Douglas:** Approximately two staff days.

**Mr Cordiano:** Six hundred and fifty dollars, by your figures; \$65 million divided by 100,000 units.

**Mr Douglas:** That's approximately the case, yes.

**Mr Cordiano:** I cannot see why it would cost \$650. We would need further elaboration and detail around how you arrive at that figure, because, quite frankly, when we talked to the Association of Municipalities of Ontario and they suggested that we have a registration system in place and that inspections could be done on a cost-recovery basis, nowhere was the figure \$650 or anywhere near it tossed out.

**Mr Douglas:** This figure of two staff days did come from Mississauga and reflects the need for follow-up inspections on occasion and, where people do not comply, prosecutions, which would get into the courts and the need for municipal solicitors and other—

**Mr Cordiano:** I suggest that is not an accurate estimate. So I won't use it in anything that I'm doing. I think that getting into prosecutions and adding that on to a simple inspection that might be done is where the real costs will ensue. That's where your estimates are skewed way out of line. For simply going in and inspecting an accessory apartment, I think that your costs would be somewhere around the \$100 to \$200 range, which is what we heard as an estimate—an informal estimate, I would add, but none the less an estimate—from the various municipalities that I spoke to and the people who were considering this idea. I just don't believe that you're talking about \$650 for each and every inspection. That's an unusually high figure.

Anyway, on the other points that the minister brought forward, I think you have continuously—

**Hon Ms Gigantes:** If I could add to that, I don't wish to in any way suggest that we don't think an investment in inspection is a good idea; we do. It's a question of what resources you have to bring to focus in what period of time and what state you leave apartments in houses in while this whole process goes on. That is a very grave concern to me.

**Mr Cordiano:** Right, and that's the same concern. At least we agree on something. However, I think you've missed one fundamental point. Because you pass this legislation, in effect making these units legal, I still am not convinced, and it hasn't been demonstrated to me, that these units will be made safe. You've suggested that your imposition of fines, the stiff penalties that are part of the amendments to the codes, is sufficient in order for that to occur, to tell people that they should go out and make their units safe; that it will provide enough incentive—or disincentive, depending on how you look at it.

I honestly believe that with our suggestion, where you have registration as a part of this process, as I've repeated before, and I'll state it again, I think it would be very simple for someone who is a tenant, knowing that there's a registration in place in their municipality, knowing that all they'd have to do is pick up the phone, to call the municipality and ask, "Is this unit registered?" If it's not, then it's not a legal unit and it could be unsafe. That's the point.

I don't think that I would rather sacrifice the question of legality or illegality for the question of safety. So I'm suggesting that even under your scheme you're dependent on tenants coming forward, knowing that their unit is now legal. I don't believe that's enough, because you're counting on these tenants' knowledge of the fire code and the building code to determine that their unit is unsafe. No question the unit will be legal, but will it be safe? How is a tenant who is not very aware of what constitutes safety—I mean, most of us in the Legislature would not know what's in the building code or the fire code unless we looked at it and spent a great deal of time studying it to know what the details are of that code. It's a very complex thing.

I know we're talking with reference to basement apartments, but I still believe, however, that the process you would have to embark on of educating people is going to cost a hell of a lot more, if you do the job properly, than the \$65 million that you're telling me it will cost for inspections, a figure that I do not agree with. I think it will be far lower than that. As well, it will be a figure that will be recovered because those who have to register these units, the landlords after all, will have to pay for the inspection.

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I believe that in the end, by having a registration system in place, it's a quick, easy and inexpensive way of determining that a unit has not in the first instance been registered and therefore not inspected and determining that at least you could ask for that unit to be inspected because you wanted to ensure that the unit was safe. How else, I ask you, in your system will we know that these units are safe?

**Hon Ms Gigantes:** Under the proposal contained in Bill 120, if you were the tenant, you could call the fire marshal's office, the fire official in your municipality and say: "Has there been a fire inspection in this unit? If there has not, would you be kind enough to come and do an inspection?"

**Mr Cordiano:** Who is going to pay for that?



**Hon Ms Gigantes:** The costs can be identified to the municipality. Once any municipal official, a fire official or a building inspection official, or indeed a planning office official under the case with new apartments in houses where there would be an application for a building permit, once any one of those officials has a request, then there is an identification of where the unit is.

Once the identification of where the unit is occurs, the assessment office can be notified, and if there is a unit which is generating revenue in the household and if there has been construction in the household and if there is revenue generation in the household because of that unit, then there can be an assessment increase on the property, and that assessment increase can generate further revenues to the municipality.

**Mr Cordiano:** In other words, it's acceptable to you if there is a cost recovery for the inspections? Can we establish that principle? Because you're saying that by additional assessment there will indirectly be cost recoveries for the municipality.

**Hon Ms Gigantes:** Yes, but those cost recoveries are not associated only with an inspection process. Those are continuing revenues, based on increased assessment, which continue to flow to the municipality as long as that unit is in operation.

**Mr Grandmaître:** If it's legal.

**Mr Cordiano:** If it's known that the unit exists.

**Hon Ms Gigantes:** Yes, but you will recall that at the beginning of this discussion I said that the way it gets identified is the same way that you would, as the tenant, call up and say, "Is this unit registered?" You can call up as a tenant and say to the building inspection branch: "Has this unit been inspected? Does it meet the building code?" You can call up the fire officials, and that's the more likely call that a tenant will make, and say, "Has it been inspected to make sure that it meets the fire code?"

**Mr Cordiano:** So in your system, you would encourage every tenant of every unit to call the building department to ask if a building permit had been taken out for the creation of this unit. At which point then, if it had not been taken out—and I suspect most units will not have a building permit that was taken out to have those units created, because they were created when they were illegal. Nowhere would there be a building permit registry that would indicate that application was made for a building permit.

**Hon Ms Gigantes:** That's right. We're talking about the existing units. I agree with you that they won't have building permits associated with them. But a tenant who wishes to assure the safety of the unit can say, "Now what do I do?" The building department can say, "Your best bet is to call the fire department and have one of our fire officials come and inspect to make sure that this unit meets the code."

**Mr Cordiano:** But by doing that, you're going to burden the fire departments with additional inspections, firstly. Secondly, they won't be able to do the inspections because they don't have the manpower to do the inspections. If you're placing the onus on the fire department to make inspections—

**Hon Ms Gigantes:** If you're saying that to me, Mr Cordiano, what you are confessing is that your registration system will be a system in which all units will be maintained in an illegal state because they haven't made it to the registry system.

**Mr Cordiano:** No, I'm suggesting to you that it is a much more logical, efficient way of doing this because it gives the tenant the ultimate freedom to check to ensure that the unit was registered. It's a simple phone call to the municipality. The municipalities have already agreed that they will set up these registries. It's simply a record of what—

**Hon Ms Gigantes:** How do you get on the registry, Mr Cordiano?

**Mr Cordiano:** How do you get on the registry? You're required to do so.

**Hon Ms Gigantes:** How do you qualify to be on the registry?

**Mr Cordiano:** You have to have an inspection.

**Hon Ms Gigantes:** Ah. Then how do you avoid an inspection which you're accusing my system of requiring?

**Mr Cordiano:** No, I'm suggesting that you don't avoid it and you've suggested to me that it will cost \$65 million to do these inspections. I'm suggesting to you that be made known to everyone and that we all agree inspections are required. Therefore, we recognize there has to be a cost associated with that and that the cost be recovered.

**Hon Ms Gigantes:** What is the priority of the inspections?

**Mr Cordiano:** The priority is to make safety the number one factor in all this.

**Hon Ms Gigantes:** Certainly.

**Mr Cordiano:** That is the priority. Whether you make these units legal or whether they're illegal at this point really isn't the priority. The priority is to ensure that these units are safe; that's the priority. You haven't assured me that in your scheme, in Bill 120, at the end of the day these units will be safe. I'm not convinced of that; we're not convinced.

**Hon Ms Gigantes:** It depends how long your day is. Mr Chair, Mr Douglas had another piece of information that he wished to add to the discussion.

**Mr Douglas:** Under a registration scheme all second units would be inspected, presumably even those where there has been no complaint, no concern about health and safety, perhaps units that have even been installed with a building permit. Without registration the only units subject to inspection would be cases where either the tenant or the property owner wishes an inspection or where the fire department has undertaken some kind of proactive inspection scheme. So the total number of inspections conducted likely would be considerably less than the 100,000 which would be needed to identify all units which are currently illegal.

**Mr Cordiano:** Sure, there'll be less. I submit to you that there will probably be few, if any, inspections done at all. That's entirely my point. That's what concerns me.



Is it the intention of the ministry then to ensure that there are few inspections done? It's a zero-sum game we're playing.

I'm not trying to go off on a flight of rhetoric here, because I think there's a real, crucial issue and a real difference of opinion. But I think the difference is borne out in that ultimately whether these units are made legal on a mere passing of Bill 120 does not rectify the situation with respect to safety. You need those inspections to ensure that each of those units meets the safety requirements; otherwise you're guessing, you're hoping. You're suggesting that it will happen because somehow miraculously tenants will come forward.

I've broken down your argument on that and suggested to you that tenants will not be knowledgeable enough about the changes you've made to the fire code and the building code to ensure that they will blow the whistle on the landlords. That's not going to happen. That's what I'm concerned about.

**Mr Douglas:** With a public education campaign, I would suspect that the public would have enough information to make the basic decisions: Is there an operating smoke detector in the unit? Is there a safe means of egress? Certainly they won't know the details about fire separation, but a lot of them were basic things they will have an understanding of and that can indeed prompt inspections.

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**Mr Cordiano:** You're telling me that the money it will cost for an education campaign—by the way, I've asked for an estimate of that and I haven't heard anything. This morning we asked for it, and I would hope you could come up with some figure that is easily or readily available, because I think what we're talking about are tradeoffs.

In our registration system, we start with the basic premise that if you are operating an accessory apartment, then it's an income-producing property or an income-producing unit and you should pay for these additional inspections, that you should pay to have the privilege of being in business, to have that additional income coming in.

We do that for everything. I mean, God, your government just imposed a \$50 registration fee on every corporation in the province. That's mandatory; each and every year that has to happen. So the principle has been long established.

When someone is setting up an accessory apartment, they have become a landlord; they are a small business person at that point. So I don't think this is foreign to anyone, the fact that you have to pay for that unit to be registered. I think it's something that's reasonable, and at the end of the day that will provide for cost recoveries to the municipality—municipalities, I might add, which have said they are more than pleased to undertake these responsibilities.

I've also indicated, if I just may finish—

**Mr Grandmaître:** Just a follow-up here; you can continue after.

**Mr Cordiano:** Okay, go ahead.

**Mr Grandmaître:** Madam Minister—no, I think I should be addressing this to your adviser. I think you told my colleague that you'll be spending quite a bit of money on educating people about this new bill.

**Hon Ms Gigantes:** We said we would undertake an education campaign. Now, don't put extra words on it.

**Mr Cordiano:** Or extra dollars.

**Mr Grandmaître:** I know you've got lots of money. Anyway, this government and, I think, all previous governments have spent millions of dollars trying to educate people as to their rights as tenants under the Landlord and Tenant Act. I bet you that 5% of the population of Ontario, 5% of our tenants, are, let's say, aware of the LTA.

**Hon Ms Gigantes:** Aware of? I'm sorry.

**Mr Grandmaître:** Of the Landlord and Tenant Act. Ninety-five per cent don't even know it exists.

**Hon Ms Gigantes:** I'm sure that most people would not know the title of the act.

**Mr Grandmaître:** Well, their rights then; call it their rights. They phone your office and my office and everybody else's office and they say: "Look, my landlord is doing this to me. What can I do?" So it proves they don't know what's in the Landlord and Tenant Act.

**Hon Ms Gigantes:** They know that there is legislation that provides them with rights.

**Mr Grandmaître:** So I'm telling you that your campaign will fail, just like everybody else's campaign has failed in the past, to spread the good gospel word about this Bill 120.

**The Vice-Chair:** And the question is?

**Mr Grandmaître:** I don't think it's going to work.

**Hon Ms Gigantes:** The question is, do I think it's going to work?

**Mr Grandmaître:** Yes.

**Hon Ms Gigantes:** I think this is the best approach we can use, and I think that if we institute yet another system of requirements which is arbitrary, which is not based on the health and safety of the existing apartments—

**Mr Grandmaître:** Madam Minister, you can't—

**The Vice-Chair:** The minister has the floor.

**Hon Ms Gigantes:** Then what we are doing is putting yet another impediment into the regularization and the increase in safety of apartments that exist now and whose health and safety status both you and I are concerned about. I put it to you, Bernard, that we cannot say to owners and to tenants, "Until now you've been in an illegal situation because of zoning," then pass the bill and, "You're in an illegal situation now because you're not registered," and expect that that's going to produce the effect you want. That's not going to do it.

**Mr Grandmaître:** We realize this is not going to do it. We realize this. When an illegal apartment is found by accident by a building inspector or a plumbing inspector, electrician or whatever, and this building inspector makes a report at city hall, then this person—the landlord—and the tenant are notified that they must appear before the

committee of adjustment, and the committee of adjustment will give these people 60 days, 90 days, up to 12 months to upgrade that illegal apartment.

Why can't you do it instead of saying, "Well, tomorrow morning you're legal," even if it's unsafe? Why can't you do this?

**Hon Ms Gigantes:** The status is not one, after the passage of Bill 120, where existing apartments will be deemed legal. They are not legal until they are legal, but they are not deemed to continue in illegality until they get registered and go through another process.

**Mr Grandmaître:** How will they be identified?

**The Vice-Chair:** Mr Grandmaître, we should really go back to Mr Cordiano or to Mr Johnson.

**Mr Grandmaître:** Yes. That was a supplementary.

**Mr Cordiano:** Well, let's just follow up on that. What you're saying then is that, if we were to somehow allow for Bill 120 to make all units legal—

**Hon Ms Gigantes:** As far as zoning is concerned.

**Mr Cordiano:** —as far as zoning is concerned, on the day of passage, on proclamation, if we were to require, following that, a registration and an inspection within a given period of time, you would find that acceptable?

**Hon Ms Gigantes:** No, because what you're doing is you're putting another process in place which assumes that unless people go through this process, then the situation continues to be illegal. We have got to get rid of the blanket illegality of the situation in which the apartments are operated. Once we get rid of the blanket illegality, then we can begin a realistic focus on how we get work done in those units which are not safe. And there's lots of work to be done, as you know and as I know.

**Mr Cordiano:** But you, by saying that, have said to me that your priority is to make these units legal as regards zoning, and that supersedes any questions around safety and has a far greater priority than the question of safety.

**Hon Ms Gigantes:** I think it's a necessary first step and I think that if you substitute for the existing zoning problem which creates a situation a priori of the illegal nature of those apartments—if you substitute for that situation a situation in which you say that unless you're registered within such-and-so a time, having met these qualifications, we're back to square one and we haven't advanced.

**Mr Cordiano:** I don't understand how that could be the case, because once you pass this bill, these units have now been made legal with respect to zoning. That will not change.

**Hon Ms Gigantes:** Yes, and you're going to make them illegal because of—

**Mr Cordiano:** With respect to safety, which they will be. Because once someone under your scheme, you would admit—

**Hon Ms Gigantes:** Not a priori. The thing that would make them illegal is your insisting that they be registered. That says about every unit which now exists, without any other condition, we assume them to be illegal unless they're registered. They may be safe. They are assumed

to be unsafe until this process is complete. You know and I know that that process can be wide, can be narrow, can be prioritized. It can be one in which the situation continues to exist where apartments continue to be deemed illegal for a long period of time if we take the approach you're suggesting.

**Mr Cordiano:** No. What I'm suggesting is consistent, entirely consistent, with what's required of someone building a new unit. You must get an inspection. You must. It is the law.

**Hon Ms Gigantes:** That's right.

**Mr Cordiano:** I'm suggesting that we be consistent with existing units, because these units have not been inspected. Therefore, I don't see how you could argue that we should have different treatment for units that have existed in an illegal state as regards zoning and in a state as regards safety which we're not aware of.

**Hon Ms Gigantes:** Let me explain it to you, if I may. Once Bill 120 is passed there is an obligation on each person who creates a new apartment in a house to follow a certain process, to apply for a building permit. That building permit will not be refused on zoning grounds; the owner will not be refused on a priori grounds. The owner will only be asked to make sure it is a safe unit, that it meets the standards of the province of Ontario, but the owner will no longer be in a position where the owner is refused a priori.

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With the existing units, what we are recognizing is the fact that the method that has been used to attempt to control the existence of apartments in houses for decades has failed and people have developed an underground economy in apartments in houses. There has been a demand, there has been a supply and there have been apartments established in houses.

Bill 120 will say they are no longer illegal because of zoning. It will not comment one way or other about their status in terms of their safety. It will provide a market situation in which it is to the benefit of tenants to find out. It has not been to the benefit of tenants to find out.

**Mr Cordiano:** How do they find out?

**Hon Ms Gigantes:** I've identified the process to you. The tenant might call your office, call a councillor's office, ask his priest—

**Mr Cordiano:** What are they going to ask when they call?

**Hon Ms Gigantes:** They will say, "How do I make sure my unit's safe?" Somebody will finally give them the advice—

**Mr Cordiano:** I'll tell them, "Get it inspected."

**Hon Ms Gigantes:** —if it's fire that is their concern, which I would suspect probably will be their concern in most cases, probably not that they're bumping their head because the ceiling's too low but that they're concerned about fire safety, they will end up—and I hope we will be able to provide some pretty direct information to them too—at the fire department where they will ask, "Has this unit been inspected?" The answer may be no. It may be yes if it's a new tenant.



**Mr Cordiano:** Chances are it will be no.

**Hon Ms Gigantes:** That's possible, in which case the tenant can say: "I have concerns. I would like an inspection. When you come to the door I will be here; I will open the door."

**Mr Cordiano:** Right, and that will take how many years?

**Hon Ms Gigantes:** I don't think that will take many years at all, compared to—

**Mr Cordiano:** We come back to the same problem.

**Hon Ms Gigantes:** —compared to a registration system which would require all units, all at the same time, to go through a process before they could be stamped, in your procedure, as legal.

**Mr Cordiano:** That's where we differ. I do not want to take that chance, that on a mere whim, because a tenant needs to pursue the question of whether his unit is safe, needs to phone the fire department and needs to get an inspection. The fire department, as we've heard repeatedly—I'll use the example of Mississauga, and I may be wrong in this, but not too far off. It would require 84 person-years to inspect all the units in Mississauga. Quite a number, correct?

All the units are illegal now, remember, and all the units have not been inspected in Mississauga because they are illegal, so I don't know how any of those units could be inspected. That would mean we would come to the same conclusion: that 84 person-years would be required to inspect all those units.

The difference is that under the system we've proposed in our party we would allow for cost recoveries, because a fee would be attached to that inspection. It's a mandatory requirement that you pay the fee and that you register the unit. Under your system, you would depend on knowledgability through an educational program you're going to put forward; you would depend on tenants coming forward and insisting that they have an inspection. The fire department in Mississauga would say, "We don't have the manpower to do these inspections. It's not that we refuse to do them, but we'll put you down on the list and we'll get to it when we get to it." That could take years. Are you prepared to live with that? I have to come back and say that's a real concern.

**Hon Ms Gigantes:** Can I ask you, have you ever been in the position where you were a tenant and called the fire department because you were concerned about safety? I have. And if I felt that when I called the fire department my landlord was going to get a bill, I'd hesitate. I would hesitate.

**Mr Grandmaître:** Why?

**Hon Ms Gigantes:** The situation was one where I was afraid there was backup of gas from the furnace. The fire department came and established that there was none. As a matter of fact, the fire official—this goes back a long way—was smoking a cigar when he told me there was none, having inspected our unit. Two ladies in the downstairs apartment passed out the next day, so there was a problem. But I would have hesitated to call the fire department had I felt it was going to immediately put a charge on the landlord.

There are certain kinds of services that are so important that to put a fee on them at the point of delivery inhibits people's use of something which is a health and safety matter, and I would personally be concerned about that.

**Mr Cordiano:** But you're doing that, in effect. First of all, it was suggested that building permits would be a guide as to whether this unit had been inspected. Building permits will not work.

**Hon Ms Gigantes:** Building permits work for new units. I've only suggested that for—

**Mr Cordiano:** We're talking about existing units. That's the biggest concern I have.

**Hon Ms Gigantes:** Okay, as long as we're clear on what we're talking about.

**Mr Cordiano:** We're not talking about new units. That is an entirely different matter. I don't have anywhere near the concern about new units because I agree with you: They will take out building permits for new units. I don't see it as a big problem.

**Hon Ms Gigantes:** Well, they must, or the units will be illegal.

**Mr Cordiano:** That's right, and under the legislation they would have every incentive to take out a building permit and to do it. The problem is where we lie. To suggest that calling a building department to determine—that's just not going to happen, because building permits have not been issued for those units. In Mississauga, all of them are illegal.

**Hon Ms Gigantes:** No, no. There are some tenants who might call the building department, but as with people who call your constituency office or mine, they will be looking for a reference if they don't get an immediate answer there. I would expect a building department, to whom we will be providing information about how to assist tenants in this situation, to do the referral.

I should add that Mr Douglas just did a quick calculation on the 84 person-years that was the estimate provided by Chief Hare for inspections of units in Mississauga. Perhaps you'd like to speak to it, James.

**Mr Douglas:** I just assumed an average of \$65,000 a year, which is what we did in our original estimates. We came up with the figure of \$5.46 million for inspecting the units in Mississauga. Of course, we're not exactly sure of the base number of units that was used to develop that 84 person-years of employment.

**Mr Cordiano:** I'm sorry, the \$64,000 was what, salary?

**Mr Douglas:** The \$65,000 was estimated to be salary plus benefits for one staff person.

**Hon Ms Gigantes:** And multiplied by 84 person-years, it comes out to about five and half million dollars.

**Mr Cordiano:** What you're suggesting to me is that that will never be a problem in your system because the bulk of the units will not have to be inspected.

**Hon Ms Gigantes:** But under your proposal, they would all have to be inspected at once, and that means the investment would all have to be made at once.

**Mr Cordiano:** Of course they have to be—

**Hon Ms Gigantes:** Under the proposal that would flow out of Bill 120 and the process that I see coming out of Bill 120, the tenants who are most concerned are most likely to call up first, and there will be a sense of priority around this.

Also, I don't expect it will always be tenants. There will be many property owners who will say hallelujah. In fact, I've met them. They say, "When is it going to pass?" They're very anxious to have Bill 120 passed. There will be many property owners who will, given the situation that will exist under Bill 120, take the initiative themselves.

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**Mr Cordiano:** But don't you see you leave all these other units at risk? All these other units for which, for whatever reason, either the landlord or the tenant do not come forward, you leave them at risk. That's what you're telling me, and I'm not prepared to do that.

**Hon Ms Gigantes:** We all understand that whatever piece of legislation we pass that addresses a situation in which over 100,000 apartments in houses exist in Ontario that are currently illegal because of zoning, the proclamation of any piece of legislation here is not going to tomorrow ensure that each and every unit in the province is up to standard. We know that. You know that.

**Mr Cordiano:** The question is which one will accomplish it.

**Hon Ms Gigantes:** There is nothing in your proposal that ensures that. In fact, I firmly believe, I deeply, firmly, at the bottom of my heart believe that the registration system will create an impediment to your goal.

**Mr Grandmaître:** Madam Minister, can I ask you a question? How many units are illegal because of zoning?

**Hon Ms Gigantes:** Over 100,000. Our estimate is 110,000 at least.

**Mr Grandmaître:** How many illegal apartments exist because they are not under the health and safety standards in the province?

**Hon Ms Gigantes:** I don't know.

**Mr Grandmaître:** You don't know? I think we should find out. If it's a zoning problem, let's be honest.

**Hon Ms Gigantes:** Well, you can do a house-to-house search to find out, but otherwise you're not going to find out. You have to be real about this, Bernard.

**Mr Grandmaître:** I'm trying to.

**Hon Ms Gigantes:** You know and I know that every time we go door to door in our areas we see apartments that we think are unsafe. If we call now, what it means is automatic closedown of those apartments because they are zoned illegal. Once this bill is passed and you do your door-knocking and you see a situation where you think there's a problem, then you will feel absolute freedom to say to the tenant: "Let me give you the number. Call the fire department."

**Mr Grandmaître:** I tell them, "I know the Minister of Housing and here's her phone number," and the constituency office will ask, "In what riding? Ottawa East? Call your MPP." That's the kind of referral your office is giving me right now. "Call your MPP."

**Hon Ms Gigantes:** I beg your pardon.

**Mr Grandmaître:** I'm not kidding. This is the kind of referral I'm getting from your office. I'm serious, dead serious.

**Hon Ms Gigantes:** Could you explain what you mean?

**Mr Grandmaître:** For instance, last week, last Tuesday if I'm not mistaken, a tenant phoned my office and my constituency person wasn't too familiar with the LTA so she referred them to your office. We were told, "Where do you live? In Ottawa East? Phone your MPP."

**Hon Ms Gigantes:** Why would your assistant refer someone to another constituency office? Isn't the place to refer somebody to the Ministry of Housing?

**Mr Grandmaître:** Being the minister, Madam Minister, we went to the expert. We went to your office, and we were turned down.

**Hon Ms Gigantes:** Do you know that there are Ministry of Housing offices and rent control offices in the city of Ottawa?

**Mr Grandmaître:** Yes, but that's not the answer we were given. "Phone your MPP."

**Hon Ms Gigantes:** Why would your assistant refer somebody to another constituency office instead of where the person might get an official answer?

**Mr Grandmaître:** Listen, we could argue on this one.

**Hon Ms Gigantes:** Well, I'm glad we cleared up what happened.

**Mr Grandmaître:** Even your constituents from Ottawa Centre phone me, and I have to say, "Look, we'll try and help you, but you should get in touch with your MPP."

**Hon Ms Gigantes:** The situation is that people who live in your constituency pay taxes, and through those taxes there are services available at the province of Ontario rent control offices, the province of Ontario Ministry of Housing office.

**Mr Grandmaître:** Everything is being transferred out of Ottawa, as you know, so the office is closed as of December 31.

**Hon Ms Gigantes:** As you know, that is not accurate.

**The Chair:** Mr Cordiano actually has the floor.

**Mr Cordiano:** If I may, getting back to this question of inspections, I think it's fair to say, Minister, that at the end of the day the fire departments and the municipalities will have to fend for themselves, should, in theory, every single unit that is unsafe come forward and require an inspection. There's no way for those municipalities or those fire departments to recover the costs that will be associated with doing those inspections. My view is that they'll simply have long waiting lists for inspections. If the education campaign is effective, if people are encouraged to get a fire inspection to ensure that their unit is safe, there will be a tremendous amount of pressure on those fire departments. What are we doing to alleviate that pressure? Don't you think we should—

**Hon Ms Gigantes:** Can I use an analogy? Under the Rent Control Act, it is very important to the level of a



tenant's rent and to increases in a tenant's rent whether the building is properly maintained and, further, whether there is a work order by the property inspection branch.

There are municipalities, Mr Cordiano, including the city of Toronto, the city of Kingston and, as far as I know, the city of Ottawa, where the standards of municipal property inspection are good, and the effectiveness of those inspection services has been increased because of the operation of the Rent Control Act, which provides that a landlord may not raise the rent, even by guideline, when there is a work order against a building.

The municipalities which have made the investment in good property inspection systems find that the Rent Control Act supports their public purpose, which is to ensure that there is safety and that there is maintenance and that the standards of the building code are being met in buildings within that municipality.

The same will be true of certain municipalities as opposed to other municipalities, unless municipalities come to understand the benefits that can flow to them from a good inspection system for apartments in houses, among other things.

The building permit process will gain some money for municipalities. We all agree that the likelihood is that where owners wish to install new apartments in the future, they are quite likely now to go and get a building permit. That will generate some funds.

The inspection process is one which will identify to officials within that municipality the fact that there can be an assessment increase, that there are extra revenues that can be generated with an assessment increase on this revenue-generating property. There is a mechanism there which, used by the municipalities, is obviously going to be of benefit to them. It will improve the buildings within the municipality. It will approve the assessment within the municipality. It will improve the life, the health and safety of people who live within the municipality. I don't often use the phrase, but it's win-win.

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I think municipalities can come to understand this. We certainly will make every attempt to help them understand it, to support them in understanding this and in building up the capability of dealing with what will be, I believe, a backlog. I do believe that. But your registration system wouldn't remove the backlog. What you're saying is you want to attach a fee to the inspection. I suggest to you that that creates a barrier to an inspection.

I think that we are going to have property owners and tenants come forward, ask for inspections. We are going to have municipal officials who are going to understand the benefits that can come from the increased assessment and that can flow into stronger property standards enforcement, and that will be welcomed by the people who live in that municipality.

So I think that this is a positive approach. I think it builds on what we know about people's desire to conform to the law and the benefits that they can see in that from a personal point of view, to say nothing of their conscience, and I think it will also be a system in which municipal officials, elected municipal officials in particu-

lar, will see the benefits for developing resources that will deal with what will be an increased demand for inspection services. There will be an increased demand.

**Mr Cordiano:** In other words, municipalities are on their own and fire departments are on their own. They very much would like to be on their own, but along with responsibility, they would like to have the power to recover their costs. In this instance, as I've said, it is unusual, because we're not talking about a situation that is new, a situation where you can recover revenues. You've suggested that building permits for new units will be few and far between. This we've heard repeatedly, that there isn't expected to be a great rush to create additional units.

**Hon Ms Gigantes:** No, I don't think there will be.

**Mr Cordiano:** So that we agree on; there is not going to be a huge revenue source from those new units. As a result, the property standards inspection departments that you've alluded to have been beefed up, but by the same token, they're doing a lot of necessary work, given the new Rent Control Act.

**Hon Ms Gigantes:** Some municipalities have good property inspection—we know that from rent control—and some don't. You know that because you're familiar with many municipalities.

**Mr Cordiano:** Absolutely, and all I'm suggesting to you is that those that do very much use their inspectors are overburdened as we speak because they're required to do inspections in an ongoing fashion.

**Hon Ms Gigantes:** No. It's the other way around, actually. It's the municipalities where municipal elected officials don't give high priority to the importance of property standards and to the health and safety of residents where you find the huge backlogs, because the two inspectors in the large municipality have a backlog of 500 units to look at.

**Mr Cordiano:** No doubt, but what I'm suggesting to you is that there are, all things considered, problems and pressures on these inspectors, by and large because the Rent Control Act has made it necessary, given the new set of standards, to do those inspections as well. I would suggest to you that the new Rent Control Act—and not to go off on another tangent here too far—has created a situation in which landlords are walking away from their responsibilities. I see this in my riding; I see this throughout Metro Toronto, where there are buildings that are literally falling apart.

**Mr Gordon Mills (Durham East):** They're greedy.

**Mr Cordiano:** It's not a question of greedy. It's a question of recognizing that landlords as well need to recover some of those costs to do the maintenance that's necessary, and I think the Rent Control Act that's in place now does not recognize that. We could be here arguing—that's for another day.

**Hon Ms Gigantes:** Yes, let's not.

**Mr Cordiano:** That's for another day. We will have that debate perhaps in the next election.

To get back to our main point here, I think it's fair to say that the minister is suggesting that the municipalities find the resources, not to mention the impact of the social



contract on these municipalities, not to mention the cutbacks that are anticipated.

This year you're going to freeze transfers to municipalities so they will not have additional moneys flowing to them from the province—or from anywhere else, for that matter. Most of them are under pressure to keep taxes in check and some have even suggested that they're going to have tax decreases. So where oh where are they going to get the additional moneys to pay for these additional inspectors that will be necessary? And the fire departments—the pressure that will continue to be borne by the fire departments is going to be enormous. We've heard from them and we've heard them complain about the cutbacks, the impact of the social contract on their budgets.

There are many, many reasons why these inspections will not be carried out in a timely fashion, reasons why we should have a cost-recovery system in place to do these. Once you've done it, it's done and over with and you move on from there. There will be a backlog and there will be a period of time. The question is, how long will the time be under your system between when all of the units that have to be inspected—we don't know what that number is, but they have to be inspected to be made safe. How long will it take for that to happen?

**Hon Ms Gigantes:** It will take different lengths of time in different municipalities. Some municipalities currently don't have adequate property standards inspection resources. I don't know if the fire departments within those municipalities are better staffed in terms of fire code inspections, but I would suspect it will vary from municipality to municipality.

What I can say and feel confident about is that a municipality which engages in supporting that inspection process associated with Bill 120 will be generating increased assessment for itself. The payback may not be when the inspector arrives at the door, but the payback can be as soon as the assessment is changed.

**Mr Cordiano:** What you've suggested to me now, and this is occurring to me as we speak, on this question of additional assessment, I think some time ago we asked if there would be changes made to the Assessment Act which would allow I suppose for reassessments to take place and visits for that purpose. That would then necessitate a change in the assessment.

I would imagine in order to do that you need an inspection or you need someone from the assessment office to visit that unit. If that happens, what happens under that circumstance where a municipality needs to gain—well, it's not the municipality, it's the provincial assessment office that's going to make that assessment. They're going to have to visit that unit to get that assessment made. They can't do it by driving by.

**Hon Ms Gigantes:** You can look at documents at city hall. Depending on who gave an order for construction, that would be recorded at the city.

**Mr Cordiano:** So now I'm a landlord sitting there thinking: "To this point, I've operated this unit and I've not had to pay additional assessment dollars in taxation. I've not had to spend additional dollars on upgrading my

unit to make it conform to property maintenance standards and safety code, fire code and building code requirements. Now I'm faced with the prospect of increased taxation because of an increase in assessment and I'm faced with the prospect of having to take out a building permit to make my unit conform to the maintenance standards and the property standards."

**Hon Ms Gigantes:** That's right.

**Mr Cordiano:** The estimates we've had are that this could cost anywhere between \$5,000 and \$7,000 on average for every unit that's not safe.

1700

**Hon Ms Gigantes:** Yes, it might.

**Mr Cordiano:** I look at that and I say, "What incentive is there for a landlord who is now going to have to pay additional tax dollars?" I mean, you've suggested to me that a fee is a great disincentive for anyone to go forward and to get registered. That would prevent them from doing this. I'm hearing from you that a municipality's incentive is to go out and to make reassessments happen through the provincial office—

**Mr Grandmaitre:** Five years behind.

**Mr Cordiano:** I needed your support on this, because that's an expertise that I don't have. But there's a backlog there, so the municipalities now will have to wait for that backlog, which is five years behind, and once the 100,000 units are added to that roll, there's going to be another five years before they ever recover any costs. I'm sorry, I don't buy this argument about the municipalities having any incentive to do these inspections. It just doesn't wash.

**Hon Ms Gigantes:** Jeff Levitt might make some comments which would increase our enlightenment on the subject of assessments and how this links up with Bill 120.

**Mr Levitt:** I'm not clear exactly what the question was or what information is being looked for.

**Mr Cordiano:** I just made some comments; I'm not asking any questions.

**Hon Ms Gigantes:** The process of a municipality achieving an increase in assessment.

**Mr Levitt:** I'm sorry; I'm not that familiar enough at present to—

**Mr Douglas:** Maybe I could talk about the general process and Jeff can address some of the legal issues.

**Hon Ms Gigantes:** Sure.

**Mr Douglas:** Assessments are generally triggered by building permit applications where the work involved is \$5,000 or more, at the determination of the building official. As well, there can be general municipal reassessments of entire neighbourhoods or of entire classes of houses. These assessments can identify units which have been constructed without a building permit. Ironically, in Scarborough, where virtually all second units are illegal, the assessors actually have about 14% of them on the assessment rolls, because people have been in and they have been determined to be two-unit properties for assessment purposes.

**Mr Grandmaitre:** And are being refused access.



**Mr Douglas:** Assessment officials do have significant powers of entry, and maybe Jeff can discuss—

**Mr Grandmaître:** Well, I've got news for you.

**Hon Ms Gigantes:** Jeff, do you have anything to add to that?

**Mr Levitt:** I don't really have that much to add, other than that I gather that if the assessment people have the additional units on their rolls they must have had some means of finding out about them through the exercise of what their powers of entry are in connection with the statute.

**Mr Cordiano:** Let's examine that for a moment, if we may, in terms of the additional powers that the assessment officers have. What additional powers over and above, say, the powers that are necessary under Bill 120, which I would—from that I understand that they are over and above what would be the entitlement of the fire chiefs or the fire department or the building inspectors. Are they additional powers to what building inspectors have? Because under Bill 120, you're required to get a search warrant, as you know. Is that what you're suggesting?

**Mr Levitt:** The powers of the building inspectors, first of all, would come from the Building Code Act. Under the Planning Act, it's property standards and zoning inspectors, and of course the fire inspectors get their powers from the Fire Marshals Act.

I don't have a copy of the Assessment Act here. I could undertake—

**Mr Cordiano:** Which act is the stronger? That's what we're trying to get at.

**Mr Levitt:** One of the strongest is the wording of the Fire Marshals Act, which allows, as was discussed, a warrantless right of entry by the fire marshals' inspectors at reasonable times to all premises.

**Mr Cordiano:** So you don't have an answer to those additional powers?

**Mr Levitt:** If required, I could get the Assessment Act and provide that information.

**Hon Ms Gigantes:** Mr Chair, I'm concerned that because Mr Cordiano keeps saying "additional powers," people may read that, if they bother to read Hansard, as suggesting that there are powers that are stronger or somebody is claiming stronger powers for the assessors under the Assessment Act than for fire inspectors under the Fire Marshals Act, for example. I hope instead that what you mean is additional in the sense of different; another form of inspection.

**Mr Cordiano:** It was suggested by your official—and I apologize; I don't remember your name. We should have a name tag for you up there. We all have one. I keep forgetting names these days. Must be because of the kids—lack of sleep at night and all that stuff.

You suggested that these assessment officials were gaining access to a great number of illegal units in Scarborough and that they were aware—in fact, 14% of the units were on the assessment rolls. How did they gain access to illegal units?

*Interjections.*

**Mr Cordiano:** Unsolved Mysteries. Isn't that a television program? I never watch that.

**Mr Douglas:** Presumably they knocked on the door and were let in. I believe there is some power to charge a property owner or an occupant with obstruction if they refuse to let an assessor into a unit, but Jeff's information, which will be upcoming, on the powers of entry of assessors will clarify that.

**Mr Cordiano:** That might enlighten us as to the emphasis that's placed in Bill 120 on building inspectors and their rights of entry or powers of entry and the fire department.

**Hon Ms Gigantes:** It certainly does suggest that in Scarborough, if municipal officials wish to begin inspecting illegal-because-of-zoning apartments in houses once the passage of Bill 120 is assured then they will have a list that they can begin with. Now, that may not be true in every other municipality.

**Mr Cordiano:** What they should do is call the assessment office—

**Hon Ms Gigantes:** We can call it the Scarborough mystery.

**Mr Cordiano:** —gain entry that way and then do an inspection. They get in the door. This is what I'm hearing.

**Mr Douglas:** Fire officials also have the authority to charge somebody with obstruction if they refuse to give entry under the Fire Marshals Act.

**Mr Cordiano:** Currently, yes.

**Mr Douglas:** And that is not affected by Bill 120.

**Mr Cordiano:** What I'm suggesting is, why then, in Bill 120, do we not just use a similar provision to what rights of entry assessment officers have and make it easy for building inspectors and the fire department to get in the building—

**Hon Ms Gigantes:** Perhaps we should ask you to get in touch with Scarborough and ask how it is that the system works that way in Scarborough. It may be unique.

**Mr Cordiano:** Well, no, these are provincial assessment officers.

**Hon Ms Gigantes:** Yes.

**Mr Cordiano:** So we can't call Scarborough.

**Hon Ms Gigantes:** Well, you might find out information.

**Mr Cordiano:** We can call your ministry—

**Hon Ms Gigantes:** I don't think you should assume—

**Mr Cordiano:** —or the Ministry of Revenue.

**Hon Ms Gigantes:** —that Scarborough couldn't explain this.

**The Chair:** Could we try to have this conversation one at a time?

**Hon Ms Gigantes:** Sorry, Mr Chair.

**Mr Cordiano:** I'm sorry. You see, I find that very interesting, that assessment officers have such enormous powers to enter these premises and in Bill 120 we're making it virtually—

**Mr Mills:** The revenue office has got the forms—

**Mr Cordiano:** Well, you require a search warrant to enter. I don't think that assessment officers would require a search warrant. Obviously, the evidence suggests otherwise.

**Mr Douglas:** Maybe I should go over the respective powers of entry of the various officials again, and perhaps Jeff can assist me if I am not totally comprehensive. Under the Building Code Act, building officials can enter properties in emergency situations without a warrant, and the same applies under the Fire Marshals Act. If it is not an emergency situation under the Fire Marshals Act somebody can request an inspection, and if they refuse to let the person in or are unwilling to make alternative arrangements, that person can be charged with obstruction. So the powers of inspectors under the Fire Marshals Act are fairly significant as well.

Under Bill 120, there is provision for inspection powers for zoning and property standards officers. Those powers are less than under the Fire Marshals Act in that if consent is refused, it is necessary to obtain a search warrant and there is no provision for charging somebody with obstruction simply because they refuse entry when somebody does not have a warrant.

1710

**Mr Grandmaître:** Can I follow up on this, a supplementary on the building inspectors, why they don't need a warrant? They do need a warrant. Let's take a basement apartment, construction that can't be identified from the outside. If there's a garage or an addition to the house, the building inspector does a windshield assessment—

*Interjection.*

**Mr Grandmaître:** They're called windshield assessments; you know what I'm talking about, Gord. He stops and looks and says: "This guy is putting up a garage and he doesn't have building permit."

**Mr Cordiano:** The permit has to be displayed too.

**Mr Grandmaître:** With basement apartments, assessors just look through the basement window and say, "Oh, they've got a sink." That's what they do; I'm not kidding. They're called windshield assessments.

They send out the assessment report and the landlord says, "How come this guy knows so much about my property and he's never visited?" Here's the door opener. Then the assessor goes in. But if the landlord doesn't complain, he'll never get his house assessed—never.

**Mr Mills:** It's fair to say that when houses change hands, there's a process that goes on about reassessment.

**Mr Grandmaître:** Only when it changes hands. It could take 25 years.

**Mr Mills:** A lot of houses change hands and a lot of these illegal apartments come to light. That's another process that we perhaps have overlooked. There are all kinds of mechanisms out there that are happening. Many people have come unstuck with illegal apartments through selling it. The new buyer says, "We'll go and check this out."

**Mr Grandmaître:** But it could happen only in a span of 20 or 25 years.

**Mr Mills:** I don't have to tell you that the old adage,

when people lived in a house for centuries, is not now the case. There's a rapid turnover.

**Mr Grandmaître:** I'm sorry if I interrupted you. Carry on with the definition.

**Mr Levitt:** Concerning the Assessment Act, we're attempting to get a copy of that act for comparative purposes. But as indicated this morning, the power of entry, as phrased in the Fire Marshals Act, is extremely broad and it's hard to imagine how it could be much more broadly phrased in the Assessment Act. But we're attempting to confirm that by getting a copy of the Assessment Act.

**Hon Ms Gigantes:** From what we hear from Mr Grandmaître, the entry may not be the key factor. It's Vanier and Scarborough where these mysteries happen.

**Mr Grandmaître:** And Mississauga.

**Hon Ms Gigantes:** Mississauga too?

**Mr Grandmaître:** Mississauga was the example in 1988. The Ministry of Revenue did a survey.

**Hon Ms Gigantes:** Yes, and what did they find?

**Mr Grandmaître:** Well, you've got all the answers through Bill 120. You brought up the assessment problem. Why are you saying there's no problem with assessment?

**Hon Ms Gigantes:** I thought you were going to reveal another mystery to us, as in Scarborough.

**Mr Grandmaître:** They're not mysteries. Mr Mills is very much aware of what I'm talking about, very much aware.

**Hon Ms Gigantes:** He insists on tantalizing us, Mr Chair.

**The Chair:** There's no rule against that.

**Mr Cordiano:** Let me ask this, if I can get back to this question of assessment. Do you have estimates of what the potential increase in assessment dollars might be, if and when all these units—and I imagine the minister contemplates that all these units will be added to the assessment rolls. What additional dollars would accrue in total? I'm not interested in each municipality.

**Hon Ms Gigantes:** I guess we could take Mr Grandmaître's study from 1988, update it by assessment inflation, and multiply by 110,000 units.

**Mr Grandmaître:** The 1988 survey that was done in the city of Mississauga didn't talk about dollars and cents. No relation: They were talking to the number of units, not dollars and cents.

**Hon Ms Gigantes:** Mr Douglas has some information which may be helpful.

**Mr Douglas:** We've talked to a variety of assessment officials, and the figures we have come up with vary from pretty well no increase to an increase of about \$500 for the second unit. The actual increase will vary upon local market conditions. The significance of the second unit in terms of selling price is the revenue potential of that unit, and that of course will vary from place to place.

**Mr Grandmaître:** And that's about 10% of the value of the basement.

**Mr Douglas:** The ritiness of a neighbourhood is also



important. Probably in Rosedale an additional \$500 or \$600 a month in income would be less significant to the purchase price than in a neighbourhood where the houses are of a more modest cost.

**Mr Cordiano:** What I'm getting at is the question of how much a municipality can recoup in terms of revenues—essentially, that's what we're talking about—over the years if there's a concerted effort with respect to assessment. The other argument by municipalities is that with additional population, there are additional pressures on services for new units that will go up. The units that are there are already factored into the service equation, and the municipality has every reason to try and go out and get these additional assessments.

The problem, as my good friend Mr Grandmaître has pointed out, is that there's a five-year backlog in terms of updating the assessment rolls. Therefore, every municipality is going to look at that and say, "We can recover our costs in about 10 years." That's the problem.

**Hon Ms Gigantes:** I can't comment on the updating of assessment rolls. We might be able to bring you further information on how that situation would be affected by Bill 120.

I should, however, draw to your attention the fact that neither I nor the ministry has ever accepted the notion that Bill 120 will require an increase in services by municipalities in the sense of hard services. We know neighbourhood services have been constructed for a higher level of occupation per unit than currently exists, and it's important for us, as members of the committee, to recognize that. That means we do not expect to see further requirements for such services as water or sewers beyond those which were established at a much higher average level of occupancy than exists in most neighbourhoods.

**Mr Cordiano:** I wasn't referring to that. My suggestion is that these units already exist, have existed for some time, so those additional services would have been factored in already. I would say that services are probably strained as a result of those additional people.

**Hon Ms Gigantes:** We reject that, for the reasons I've identified.

**Mr Cordiano:** You reject it, but with respect to additional services, there's really no way of determining that.

**Interjection:** There is.

**Mr Cordiano:** No, there isn't. I haven't seen a study that suggests that those kinds of services—

**The Chair:** Through the Chair.

**Mr Cordiano:** I'm not talking about water and sewer; I'm talking about recreational services, additional services that come in the form of social assistance agencies, schools. That kind of additional pressure is not factored into this equation. That is probably why, in some communities, there are additional pressures on the existing services. In fact, the additional assessment dollars may alleviate some of those pressures.

**Hon Ms Gigantes:** Just on that point, if I could, Mr Chair, because I think it's a very important one. I think the best comment that has been made on this issue, and

precisely the way you have expressed your views on this issue, was made by Dan McIntyre, who works with the Federation of Ottawa-Carleton Tenants Associations. He said to this committee that Bill 120 does not generate people, does not increase people. What Bill 120 does is provide them with a place to live. It does not increase the number of people in a municipality. It provides them with an affordable place to live. It does not increase the number of children, it doesn't increase the birth rate, it doesn't increase need for schools. We can assume that the population of a city such as Toronto or Ottawa is not going to be significantly affected by Bill 120.

1720

**Mr Cordiano:** That's on a whole other issue.

**Hon Ms Gigantes:** Then you cannot associate with Bill 120 or the measures under Bill 120 an increase in the demand for schools, for social services, for social assistance, for family services, for any of the services you've just identified, as being required in increased numbers or at increased levels because of apartments in houses.

**Mr Cordiano:** No, what I've suggested to you is that any additional units will do that, will cause additional pressures. I think you would agree with that.

**Hon Ms Gigantes:** No, I don't, for the reason I stated before: 80% of our existing housing was built more than 20 years ago and it was built on estimates of occupancy levels of a household. The number of people in the average household was higher than it is now.

**Mr Cordiano:** That's not the case in North York.

**Hon Ms Gigantes:** Within the city of Ottawa, for example, over the last few years we've seen an increase in the number of households and a drop in the population. There are fewer people per household right across this province. The size of families has gone down, the number of single-person households has increased, and everywhere you look our services are overbuilt for the number of people.

**Mr Cordiano:** Not everywhere.

**Hon Ms Gigantes:** There are exceptions, and under Bill 120, in areas where services have been inadequate—and let me point out, they've been inadequate for many years and have nothing to do with apartments in houses. There are areas of Kingston which are a problem, there have been areas in North Toronto which are a problem, where in fact we have said no more development until services are adequate. Bill 120 respects those planning decisions.

**Mr Cordiano:** How?

**Hon Ms Gigantes:** There are areas in which Bill 120 does not provide as-of-right apartments in houses. One is in areas that are dependent on individual septic tanks. The second is in an area where, because of the lack of adequate services, there have been planning restrictions, and you know those areas here in the Toronto area better than I do. They exist in other municipalities. Bill 120 will not permit owners of properties to install, as of right, apartments in houses in areas where there are those planning controls because of service lacks.

**Mr Cordiano:** We're going to get into a whole other area, but that's precisely—



**The Chair:** We'll try to restrict our comments to the registration issue.

**Mr Cordiano:** What I was suggesting was that the services have been brought to a level where they've factored in the population base with respect to whether these units existed or not. An area, for example, providing recreational services will make an assessment of the population in that area. In North York, for example, where I live, the pressure for recreational services is enormous.

I will grant you that for those services are being provided, the number of accessory apartments, the population levels, have already been factored into those services. I'm not suggesting that's not the case, but if you get additional units in the same area—and you will, to some extent—the pressures increase.

It goes back to the question of assessment dollars. I simply suggest to you that if assessments do increase, and inevitably they will have to, because municipalities, as you've suggested, will have every incentive to do that—

**Hon Ms Gigantes:** Yes, I expect so. I'm not attempting to discourage them at all.

**Mr Cordiano:** No. In fact, you're going to be encouraging them through what you've just said, so assessment dollars will increase, the assessments will increase, and that will be an additional cost to those landlords who operate these units. It goes back to the same point I made earlier.

**Hon Ms Gigantes:** If you look upon that as encouragement, my position has been consistent in every discussion I've had with every municipal official of every kind, elected or staff, ever since the precursor to this, Bill 90, was introduced. I just want to assure you of that.

**Mr Cordiano:** What I'm suggesting is that the additional assessment dollars are very necessary for those municipalities. If you look at a place like Metro Toronto, the population of Metro Toronto has declined somewhat in the last number of years. The infrastructure that exists could certainly hold more population than we have today in Metro. But that's infrastructure: water, sewer, roads etc. It doesn't speak to services that often are provided by municipalities. The additional assessment dollars are very crucial to those municipalities to provide services which at this moment in time, even as the population has declined, are being constrained because of falling revenues to municipalities. I'm sure they'll welcome these additional assessment dollars and will do everything in their power to ensure that these additional assessments are made. What I'm suggesting is that that will be a further disincentive to landlords to seek a building permit. I've said this before.

In the end, if we add up the revenue that's generated from assessments over the long term, those revenues will be essential to municipalities to provide for services which now go wanting as the population base increases in Metro, as inevitably it will, because probably any government, of whatever political stripe, will want to increase the population base of Metro. It's absolutely critical in the future, with that kind of infrastructure expenditure, that we do that. That's a policy of your

government's party and it's a policy we would support and have supported in the past. As that happens, you're going to get additional services that are required.

**Hon Ms Gigantes:** Apartments in houses or no apartments in houses.

**Mr Cordiano:** You're going to get additional requirements for services, and in the long run—

**Hon Ms Gigantes:** Apartments in houses do not generate people. Let us agree on that. A child resident in the city of Toronto is a child resident in the city of Toronto. That child may need family services, may need education services, may need park services, but that child is going to need those services wherever the child is.

If you're suggesting that apartments in houses in the city of Toronto—and you know the city of Toronto has had the most open approach to apartments in houses of any municipality. We have not seen the city of Toronto overwhelmed by a tide of immigrants out of York or out of other areas to come and live in the city of Toronto because there are apartments in houses.

Once we say there can be apartments in houses in York, in Mississauga, in Scarborough as in Toronto, then a person is a person is a person; a child is a child is a child. A social assistance recipient will need the same kinds of service whether in one municipality or another. There won't be an incentive to move one way or the other, and we're not generating new demands for services when we say property owners can place an apartment in a house. We don't increase the birthrate when we do that.

1730

**Mr Cordiano:** No. What I'm getting at is that the inspection fee, which you seem to indicate is a total disincentive for anyone to register their unit under our approach for mandatory registration, is a small item. I would submit to you that—and I think we've said enough about this and we're going to move on—it is nowhere near as much of a disincentive as the additional assessment that will be made because municipalities will want to do these additional assessments.

As has been suggested, it seems to be the case that the powers of entry for those assessment officers are quite large and there would be very little obstruction to their entry.

*Interjection.*

**Mr Grandmaître:** I'm not—

**Hon Ms Gigantes:** Now you're trying to weasel out of it.

**Mr Grandmaître:** I'm not a lawyer.

**Mr Cordiano:** I suspect that at the end of the day there will be a great disincentive for people to come forward under Bill 120 as contemplated, because firstly they will have to upgrade their unit to make it safe. They will then face additional assessment, which will make it more costly.

Comparing that to the current way in which they operate, they don't have to do any of those things. They can continue to exist, and after Bill 120 is passed they're legally entitled to continue their existence—and they're not legal according to zoning. Therefore, you could



continue to operate in much the same way as you have in the past until someone comes forward.

**Hon Ms Gigantes:** You could. The risk is high.

**Mr Cordiano:** The risk is high for knowingly operating this unit in an illegal, unsafe fashion.

**Hon Ms Gigantes:** We are going to make every attempt to provide property owners with information about their responsibilities, should they choose to be or should they currently be landlords of apartments in houses. If there is not a willingness on the part of property owners to subscribe to the requirements that are associated with Bill 120, which are new fire code regulations, their defiance can be extremely costly.

**Mr Cordiano:** Let me ask the lawyers this question, whoever would like to answer it. The test that would be applied by the courts with the new regulations, you contemplate that it might be that a landlord would operate this unit knowingly in an unsafe fashion? Because there is nothing in Bill 120 which suggests that the unit obviously needs an inspection for this landlord to seek to have his unit made safe.

If I were landlord X—I have a nice unit which I just built some time ago. I keep it properly maintained. I may even have a smoke detector. But I don't have all of the other requirements, another exit. Under the new code I'm required to have one but I don't know that.

What will the courts do in assessing that kind of matter that comes before it as to the landlords knowingly continuing to operate that unit in an unsafe fashion? Will the test be that in fact the landlord had no way of knowing that his unit was safe? That's another question.

**Hon Ms Gigantes:** Do we have a volunteer lawyer?

**Mr Mills:** Mr Chairman, if I may, is this sort of a one-man interchange for the whole of the time, or are other members allowed to make some comment that realistically makes common sense, along with some of the stuff that I've heard here today?

It seems to me that I've got into a very, I must say, boring situation where the dialogue is between two people. We all sit around here with our thumbs in our ears, and I notice the honourable member across there is having a job to keep awake. This isn't conducive, I don't think, to what this committee is all about, I really don't. We can go on like this for—crumbs, till Christmas.

**Mr David Johnson:** On a point of personal privilege.

**The Chair:** On the same point, Mr Johnson.

**Mr David Johnson:** He didn't mention the member across there, but he looked in my direction. I'm just deep in thought with the excellent points that the member, Mr Cordiano, is raising. I would simply encourage the member to put his name on the list if he wishes to participate.

**The Chair:** I would tell members we are conducting the committee according to the way we've been doing the clause-by-clause from the very beginning, in that a member indicates to me he wishes to be on the list. When he has completed his questioning or making his points, we move to the next member on the list. At this point I have Mr Johnson and then Mr Mills. Mr Cordiano.

**Mr Levitt:** As I understand the question it's, what if a landlord shouldn't know that these requirements exist?

**Mr Cordiano:** I'm trying to put forward a hypothetical situation, obviously, that contemplates a court dealing with a matter that came before it whereby a landlord was taken to court. I'm just trying to assess what emphasis the court might place in prosecuting this landlord who, there was some suggestion, perhaps unknowingly was continuing to operate a unit that he thought was perfectly acceptable and unknowingly continued to operate it in this fashion.

**Mr Levitt:** I gather what you're suggesting is whether ignorance of the law would be an excuse.

**Mr Cordiano:** Well, it's not; in general, it's not.

**Mr Levitt:** The answer to that usually is no.

**Mr Cordiano:** Go beyond that.

**The Chair:** Would you let Mr Levitt answer.

**Mr Levitt:** In general, if someone pleads they didn't know about the existence of a law, that could go well beyond these types of things, pleads about speed limits and other types of regulations, that generally is not an adequate defence.

As a practical matter, it's my understanding that when someone is in violation of these codes, very often, if not virtually all the time, the first thing that happens is that an order to comply is given. Therefore, it's brought home very clearly to the person what their responsibilities are, and they're given a chance, within an appropriate time, to remedy it. So your question I think is somewhat hypothetical.

In summary, ignorance of the law probably wouldn't be a defence, and it may very well not come up if the fire officials point out what the deficiencies are, issue an order and give sufficient compliance time. Therefore, it's brought home very clearly to the person what they have to do and the time frame.

**Mr Cordiano:** That issuance of an order would be obtained, obviously, after an inspection was done?

**Mr Levitt:** Yes, but I imagine so would a prosecution. I assume your question is that somehow this person has gotten to court, so somehow it has come to the attention of the fire officials that there is a problem.

**Mr Cordiano:** I suppose, then, the real question comes back to, what if the fire department is unable to make the necessary inspections in an appropriate and timely fashion, given that there might be a backlog of some sort, and someone wanted to apply to the courts in advance of that inspection? That wouldn't be possible?

**Mr Levitt:** Apply to the court for what? The question isn't clear to me.

**Mr Cordiano:** For violations of the code.

**Mr Levitt:** You're saying that in a case of a fire department that can't inspect for a given amount of time, you're suggesting that same fire department would, in advance of the inspection, take the person to court. Is that what you're saying?

**Mr Cordiano:** No. I'm suggesting that a tenant might or someone; it most likely would be a tenant.



**Mr Levitt:** Should there be a prosecution in connection with a violation of the Fire Marshals Act, it's extremely rare that it would come from other than the enforcement agency.

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**Mr Cordiano:** Okay. So the problem and the bottleneck might occur with the fire department, as I have suggested. In fact if they don't have the additional resources to do all the inspections, they may not be able to get to those inspections, and it's not inconceivable that the backlog might be in numbers in years before these inspections might take place. What responsibility is there at that point for the fire department that has been requested to do an inspection?

What I'm suggesting is that if a year goes by or a year and a half goes by and the inspection still hasn't been done, can a tenant then apply to a court because he or she believes—let's assume that the educational program really works—that this unit is really an unsafe place? I mean, he can move, but—

**Mr Levitt:** It's still not clear, what is the application to court for? To make the fire department have an inspection? It's not clear to me what the tenant would be applying to court for. I guess I don't understand the question.

**Mr Cordiano:** What recourse would a tenant have? He would have to wait until the fire department issues a work order or does an inspection by request of the tenant. The tenant would go out and request a fire inspection. The department would then put this person on a list. He might have to wait a year and a half, two years. So we're sitting around waiting. In the interim, tenants feel that they're living in an unsafe place. Could they apply to a court to have an inspection done quickly? This is what I'm asking you. Is that totally out of the question? How would a court feel about this? In that case, how would they treat the landlord, if it ever got to that stage?

**Mr Levitt:** It's kind of hard to answer that, because that type of situation just hasn't been a problem in terms of the municipal services not being able to respond within a reasonable enough time. I guess it doesn't happen often enough for it to go to court. But in general the municipality has a certain amount of discretion to weigh the various factors and make the inspection.

**Mr Cordiano:** I suppose it goes back to the point Mr Johnson made this morning about liability. I suppose it's all tied in to that. But at the end of the day, obviously, to do anything requires an inspection, and for any issuance of an order, you need an inspection. So really the central point is around inspections, and we haven't gotten any further in terms of facilitating those inspections basically, coming back to the point of revenue and cost recoveries in order to facilitate the timeliness of inspections. Anyway, I'll leave it at that and pass on the baton to Mr Johnson or whoever else is on the list next.

**Mr David Johnson:** One comment I wanted to make off the top is that the minister is fond of saying that these apartments are illegal because of zoning, and thereby the strong implication is that the municipalities are evil and this is the reason we have this whole thing. They're

illegal because they violate the zoning bylaws. That's why they're illegal.

That would be a bit like saying speeding on Highway 401, for example—if I were caught for speeding, I'd say, because the speed limit is 100 kilometres per hour, I'm justified in speeding, but those who made up the speed limit put it too low. I don't think that would really carry much weight with the courts and I don't think that's going to change anybody's thinking. But municipalities are very irritated when they hear that phrase, "It's illegal because of zoning." It's illegal because the situation violates the zoning bylaw.

I wanted to follow up a little bit on the assessment, because that's an interesting issue. I think the gentleman from the ministry indicated that from the people who had been talked to—you said you talked to a number of different people in the assessment—there was a range of zero to \$500. Is that what you said?

**Mr Douglas:** That's correct.

**Mr David Johnson:** And that would be in terms of additional assessment?

**Mr Douglas:** That would be additional annual taxes.

**Mr David Johnson:** Oh, that's additional annual taxes. Okay. So can you give us some further description of why the range? "The ritzy neighbourhood" I think was the phrase you used, but can you describe this a little more deeply? Why zero, for example? What would happen in the case of zero dollars increase?

**Mr Douglas:** If you have a neighbourhood filled with very rich homes, the additional rental income from the second unit would be of negligible importance to the people who would be interested in living in that neighbourhood. Consequently, the second unit would not be much of a selling feature and would not really add to the purchase price. Taxes are based on assessed value, which is based directly or indirectly upon purchase prices. In a certain neighbourhood, having a basement which is fully finished with a recreation room and a Jacuzzi may be more of a selling feature than a second unit.

**Mr David Johnson:** So what you're saying is because a chunk of Ontario is on market value assessment, I think—I'm looking for a head nodding; I don't see a head nodding—the value of the home in some cases would be increased, therefore the market value would be up and therefore the assessments based on that, so the assessment would be higher. Is that what you're saying?

**Mr Douglas:** That's correct. If the second unit increases the purchase price of the house, this would lead indirectly to an increase in assessment and consequently to more property taxes.

**Mr David Johnson:** But you're using the term "purchase price," and really, aren't we talking about market value assessment? Take Mississauga, for example.

**Mr Douglas:** Property value is certainly not my area of expertise, so I'm just reflecting what we have been told by assessment officials, that depending on the market situation in a given community or municipality, the typical second unit will increase the property taxes between zero and \$500.

**Mr David Johnson:** There's been some discussion



that we're going to have a report on this matter. I haven't heard the minister comment on that yet, but I think it would be very useful because the municipalities apparently, according to your numbers, Madam Minister, may be required to find \$65 million, I think is what you've said, in terms of a complete inspection of all units. The way that you're suggesting that this would be financed would be through this increased assessment. Is that what you're suggesting? You're not indicating that there'd be any money available to the municipalities to assist in doing these inspections.

I think from your comments you indicated that the way you would see them financed is basically because you would see the assessment increasing and with that extra revenue coming in from the assessment, that would be some sort of tradeoff against this \$65 million that your forecast indicates would be the cost of inspecting all of the units. Am I correct in stating that?

**Hon Ms Gigantes:** Yes, you're roughly correct.

**Mr David Johnson:** It then would be very useful to have that report with regard to the kind of discussions being outlined to us here, just to address the fears of the municipalities that they're going to assume a considerable burden, a \$65-million burden, because my guess is that they might need some persuasion that indeed that additional assessment would come in to balance off the \$65 million. Are you prepared to have that report—

**Hon Ms Gigantes:** I think that we have to recognize that \$65 million would not be an expenditure that would happen tomorrow, once the bill is passed, that there would need to be an increased effort in the property standards fire official inspection process, and that would be an ongoing process. We wouldn't expect it all to happen at the same moment in time. I don't think anybody would contemplate that. I doubt there are enough people trained in the province of Ontario to accomplish it overnight.

I would also like to just put a small caution. When you talk about a report, generally, on the assessment situation, perhaps Mr Douglas could indicate to us what kind of information he felt might be available. I don't know the nature of what he is referring to here, and I don't wish your words to be taken and my silence to be read as an undertaking that we're going to do some huge kind of abstract study on the subject. If we could just clarify what it is that we think is available in terms of information; that would probably be helpful.

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**Mr Douglas:** Because many units are illegal and the assessment people have been less successful in many municipalities than the ones mentioned earlier in actually identifying the units, the information which is available is admittedly of an anecdotal nature. So while it may be possible to do a study, it would not be an easy task simply due to the lack of comprehensive data.

**Mr David Johnson:** I raise this issue, and it has been raised before, because during the course of this afternoon we have contacted both the North York assessment office and the Scarborough-East York assessment office. The information we get, not surprisingly, in the short period

of time, is somewhat conflicting. On the one hand, one of the offices is saying that it's possible the assessment would be increased but it's not necessary. That I guess is in line with the fact that staff have indicated that in some cases the tax increase would be zero.

**Hon Ms Gigantes:** That's right.

**Mr David Johnson:** That leaves me at a loss to know how much the taxes actually would increase. In the case of Scarborough or in the case of North York or East York or anywhere, would they be more apt to be zero, would they be more apt to be \$500, would they be more apt to be somewhere in between?

Notwithstanding the fact that the \$65 million won't be required at any one given point in time, if all of these units are to be inspected over a period of time, and I think we would all hope that from a safety point of view they would be inspected or that somehow safety would be assured, then the \$65 million is going to be required at some point in time over a period of years.

**Hon Ms Gigantes:** Mr Johnson, you would agree with me that it would be ideal if in the province of Ontario we inspected every residential unit and kept our inspection system very much up to date.

**Mr David Johnson:** My time for a response?

**Hon Ms Gigantes:** Yes.

**Mr David Johnson:** We were into this discussion this morning. For all structures that are in place, a vast majority of the structures would have been inspected in the initial stage through the building permit process in the province of Ontario. Very few structures, certainly today, would be put up without a building permit. There's the odd one where a person does that and I guess there're renovations inside, but in the initial instance, the structure would be inspected. However, the difficulty with the basement apartments is that within that overall house that has been inspected, very few of those basement apartments would have gone through that same rigour or that same scrutiny.

**Hon Ms Gigantes:** As you and I know, the vast majority of the residential units in the province of Ontario were built some time ago, and people have increased use of the electrical system, sometimes in very ad hoc and dangerous fashions across this province. People add all kinds of equipment. They add all kinds of fairly unsafe ways of providing electrical current to equipment. We know that exists and it would be of benefit, there's no doubt about it, to have each and every residential unit in the province of Ontario inspected.

As in other matters, one tries to achieve a reasonable kind of balance, one where the benefits of the increase in costs are going to be reasonably balanced with the benefits that can be generated by those costs.

I suggest to you that in a large number of the apartments which are now called illegal because of their zoning, there may well not be proportionately any more problem with health and safety than there is in a great variety of other residential units in the province of Ontario. I think it's not fair to assume that's true.

I think it is reasonable to propose the way in which we go about providing inspections in those units, where first

of all tenants and property owners have questions, which they will not now be afraid to ask, about safety measures within those units, and to suggest to municipalities that to provide the resources to do those inspections is a benefit. It will be a benefit in terms of assessment overall, it will be a benefit in terms of the value of property within the municipality and it will be a benefit in terms of the health and safety of people within the municipality. That process can go forward in a practical, step-by-step kind of way and I think it is as good a process as we can contemplate generating by any other method.

**Mr David Johnson:** In terms of your assumption about accessory apartments—we tend to talk about basement apartments more often, because unfortunately that seems to be where most of the tragedies seem to occur—or basement apartments being no more nor less safe than the main unit or single-family houses that don't have an accessory apartment, you may be right. But there is one basic situation that would indicate that there is a concern that this assumption may be wrong.

Again I get back to the fact that homes in the first instance were inspected. When those homes were constructed, by and large they did not have basement apartments. The basement apartments were put in afterwards. You may say, "Homes have other renovations that are put in," and indeed that may be true, but here we're talking about a whole unit in a basement, what we seem to focus on, that has not been inspected, that has in all likelihood never been inspected. I would say that by itself is reason for concern that there may be a greater safety hazard, plus the fact that if we do focus on basement apartments being located in a basement and the problems associated with that in terms of access, in terms of the smoke problem in a basement, the problem of dissipating smoke and that sort of thing, it seems to raise it as a greater concern.

You've said that municipalities will recognize that in terms of health and safety there'll be benefits. I think you're right on that question and that's one I would support you on. I think that in terms of health and safety to the citizens of municipalities, if the inspections are done, there will indeed be a benefit in those terms. I don't question that. My concern in that regard is that I don't think nearly as many of those inspections will be done as I believe you think will be, but I don't know how many you think will be done so it's hard for me to compare. I'll come back to that question maybe in the future, but if the inspections aren't done then there won't be the benefit.

In terms of the other issue, in terms of the assessment which we started this discussion on, that municipalities

will recognize the benefit in terms of assessment, they will if there are some solid statistics. That is what I'm asking in this report, if there's something they can base that decision on or that feeling on. If they can see something that says indeed their assessment will increase by so much, then perhaps they will agree with you, but if they don't see that, I think they'll be very suspicious.

There are many different situations across Ontario. Part of Ontario is on what we call market value assessment; here in Metropolitan Toronto, as I am sure you're aware, we do not have market value assessment.

**Hon Ms Gigantes:** I've heard that.

**Mr David Johnson:** Yes. Is that a signal for something else? I can't believe that the Assessment Act would pertain equally in both of those situations. I think the situation that has been described, in terms of the purchase price being increased, pertains to a market value situation, but that's not the circumstance here in Metropolitan Toronto where a large portion of the basement apartments we're talking about actually exist, so I'd like to see how it would work here in Metropolitan Toronto.

I can follow up and contact Carl Isenburg in North York, for example, and the East York-Scarborough assessment officer, but I think that information would be useful to all members of this committee.

I get the impression, for example, and I wonder if your staff knew that this was the case, that in some cases the basement apartment would be assessed as a second unit. Is that what you understand, that in other words in some cases the whole building would be assessed as a duplex? The upper would be assessed and the lower would be assessed as a second unit perhaps, in some cases.

**Mr Douglas:** I believe that in small residential properties, whether there is one unit, two units, perhaps three units, while the units might be assessed separately, the total assessment for the property would be the same. For example, two properties with more or less the same purchase price, one converted, one unconverted, would pay the same property taxes. It's only when you get to larger residential buildings that other considerations come into play.

**Mr David Johnson:** You see, there are a lot of—

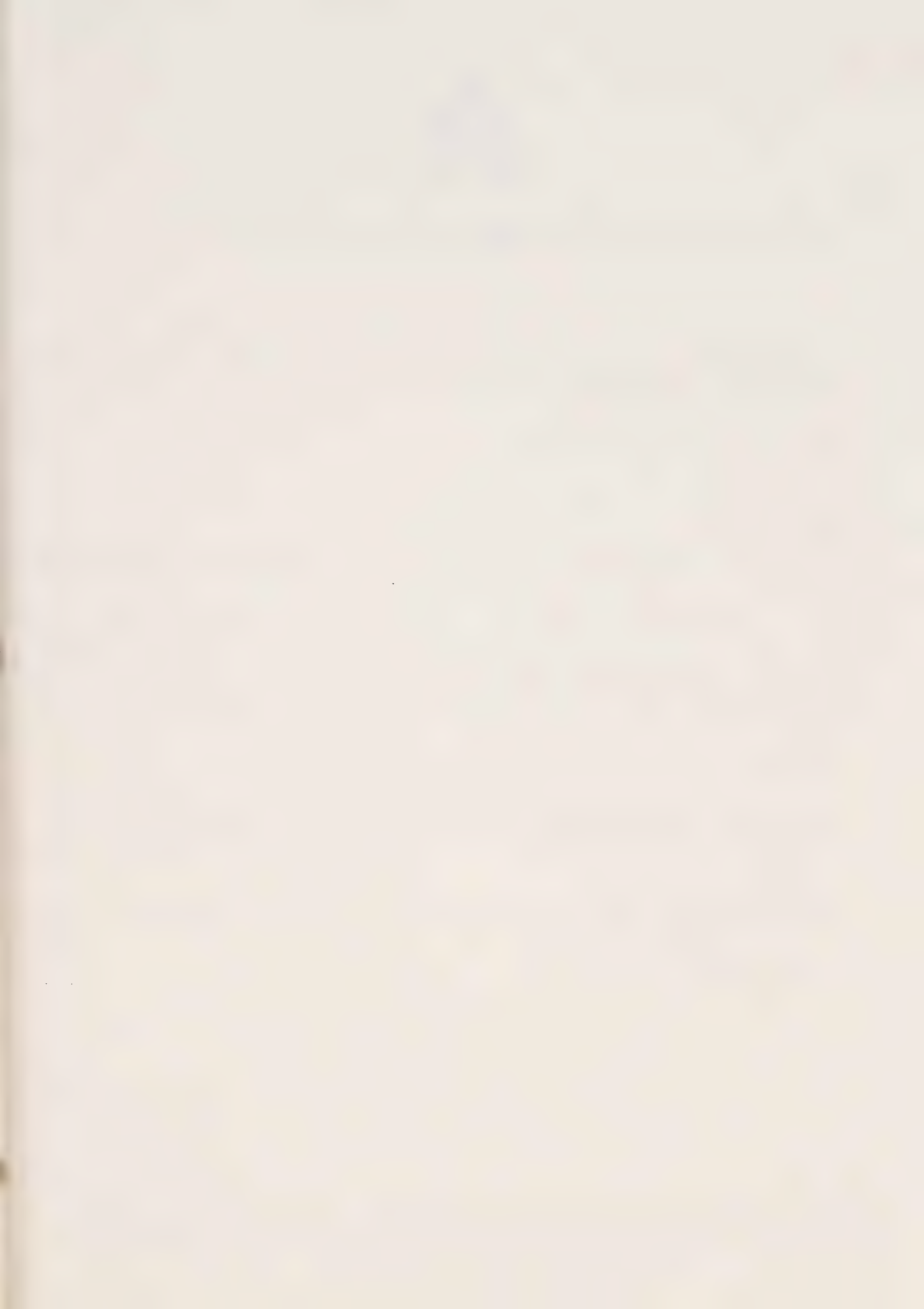
**The Chair:** Perhaps at this point, Mr Johnson, we should adjourn for the day, it being 6 of the clock. The government House leader is about to adjourn the House.

**Mr David Johnson:** In that case, I'll follow your advice.

**The Chair:** We should do the same. We'll pick this up next Thursday morning at 10 am.

The committee adjourned at 1802.





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Thursday 14 April 1994

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*\*In attendance / présents*

#### **Substitutions present / Membres remplaçants présents:**

Carter, Jenny (Peterborough ND) for Mr Mammoliti

Cordiano, Joseph (Lawrence L) for Mr Sorbara

Gigantes, Evelyn, (Ottawa Centre ND) for Mr Morrow

Mathyssen, Irene (Middlesex ND) for Mr Dadamo

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Morrow

Winninger, David (London South/-Sud ND) for Mr White

#### **Also taking part / Autres participants et participantes:**

Ministry of Housing:

Gigantes, Hon Evelyn, minister

Douglas, James, policy adviser

Dowler, Robert, manager, planning and building policy

Levitt, Jeffrey, senior solicitor

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Gottheil, Joanne, legislative counsel





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**Legislative Assembly  
of Ontario**

Third Session, 35th Parliament

**Assemblée législative  
de l'Ontario**

Troisième session, 35<sup>e</sup> législature

**Official Report  
of Debates  
(Hansard)**

Thursday 21 April 1994

**Journal  
des débats  
(Hansard)**

Jeudi 21 avril 1994

**Standing committee on  
general government**

Residents' Rights Act, 1993

**Comité permanent des  
affaires gouvernementales**

Loi de 1993 modifiant des lois  
en ce qui concerne  
les immeubles d'habitation

Chair: Michael A. Brown  
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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON  
GENERAL GOVERNMENTCOMITÉ PERMANENT DES  
AFFAIRES GOUVERNEMENTALES

Thursday 21 April 1994

Jeudi 21 avril 1994

The committee met at 1018 in committee room 1.

RESIDENTS' RIGHTS ACT, 1993

LOI DE 1993 MODIFIANT DES LOIS

EN CE QUI CONCERNE

LES IMMEUBLES D'HABITATION

Consideration of Bill 120, An Act to amend certain statutes concerning residential property / Projet de loi 120, Loi modifiant certaines lois en ce qui concerne les immeubles d'habitation.

**The Chair (Mr Michael A. Brown):** The purpose of the committee meeting this morning is to consider Bill 120. As members know, we are now operating under a motion that was passed by the Legislature. It really demands that there be only one motion put and that the committee now report. Could I have someone make that motion, please?

**Mr Gordon Mills (Durham East):** So moved.

**The Chair:** Mr Mills has moved that the committee now report.

**Mr Hans Daigeler (Nepean):** Should we debate that motion?

**The Chair:** The motion is debatable.

**Mr Bernard Grandmaître (Ottawa East):** Huh huh.

**Mr Gary Wilson (Kingston and The Islands):** Thank you, Mr Grandmaître.

**Mr David Johnson (Don Mills):** I'll second that.

**Mrs Irene Mathysen (Middlesex):** Whose gargle was that on Hansard?

**The Chair:** Order. I would point out to members that the motion of the House deems that this is reported, regardless of what we do today.

**Mr Grandmaître:** It was expected. As usual, the government is showing, "Let's consult with the people and let's try to inform the House of our good intentions," but when it comes to the real debate, the real crunch, the government does its own thing and introduces time allocation or closure. The opposition is getting used to this kind of attitude, an attitude that has been denounced not only by members of this House but by the general public, especially in Ottawa-Carleton.

This is the second blow that the Ottawa-Carleton area has received in the last couple of days. As you know, the Minister of Housing, the minister responsible for eastern Ontario or Ottawa-Carleton, Ms Gigantes, wanted closure or time allocation on Bill 143. Now that same minister is doing the same thing with Bill 120.

Bill 120 will affect citizens not only in the Ottawa-Carleton area but right across this province. We've heard,

time and time again, how disappointed people were for the lack of consultation with the non-profit groups, especially the non-profit groups, insisting that they come under the LTA, the Landlord and Tenant Act, and the Rent Control Act, and also affecting private enterprise, the privately owned health care operators.

As I say, it's expected. I know the government has an agenda, but I think it shows the mismanagement of government. When they can't succeed in convincing this House, then they simply give up and introduce time allocation, prohibiting the approving of a consultative process. We simply have to go along, but I want to be on record that I denounce the attitude of the government. We don't have much of a choice.

**Mr David Johnson:** Many of the comments that Mr Grandmaître has made spring to my mind as well. I think the government should sit back and look to see how it has managed not only this issue but some other issues.

This bill originally came forward as Bill 90 but didn't get any priority or attention. It then was reconstituted as Bill 120. Mr Grandmaître has mentioned another bill, the Ottawa-Carleton bill, that went through the same process and came forward as Bill 77—what's this? "There's not enough"—

**Mrs Mathysen:** Give it to the Chair. Read it into the record. Hold it up.

**Mr David Johnson:** Do I read that in too?

**Mr Grandmaître:** Could we get a copy of this?

**Mr David Johnson:** At any rate, to keep it short, Mr Chair—and it's probably a sensible suggestion, because I'm sure nobody really cares what we say here today—the government is pushing through something that it didn't give priority to, that it didn't properly plan.

Even when I think in terms of the available dates that this committee could have debated this bill, the first Thursday was lost, and I think there was another Thursday when we took only a half a day. As a matter of fact, I think there were two Thursdays that were lost. There was the one before Good Friday. I suppose it's routine that you don't meet before Good Friday. I don't know, but I was here, I could have met. There were other days when we could have met.

But the government showed, as far as I could see, no particular inclination to use all available time. It showed more initiative in terms of bringing in closure than trying to properly manage this issue. Mr Grandmaître was very true: That not only pertains to this bill, but it pertains to Bill 143. I just hope that the members sit back and look at that. I know the people of Ontario understand that.

They see through this. Hopefully, the government members will.

**Mr Mills:** Not out my way they don't.

**Mr David Johnson:** Maybe not for Gord. Gord's a good fellow; I'll recognize Gord. But the rest of the government—

**Interjections:** Oh, oh.

**Mr David Johnson:** Well, maybe with one or two exceptions here. The government as a whole is in deep trouble. They're not managing their issues. We have some fine people here.

**Mr David Winninger (London South):** I left the committee for four weeks. I came back and you were still on the same section.

**Mr Grandmaitre:** That's because we were waiting for you.

**Mr David Johnson:** Other than that, I've gone on record. What's the point? Closure has been brought in on this. It's a sham. Let's get on with it. You have a busy schedule today.

**Mrs Mathysen:** Just very briefly, it seems to me that this bill had full debate at second reading. It had four weeks of public hearings in the committee stage and 22 hours of clause-by-clause. I must add that the committee was only able to get to section 2 in 22 hours. I haven't done the multiplication on this in terms of how long it would take to get to the end of the bill based on 22 hours for one and half sections, but I don't think any of us have that many years left in our lives. I think we must get on with it now.

**Mr Winninger:** We may not live that long.

**Mrs Mathysen:** The only obstruction to democracy has come from the opposition in terms of this kind of dragging the process out. It's time to get on with it. I'm very pleased to see that we are indeed getting on with the job that we were asked to do.

**Mr Mills:** I'm not going to prolong this agony here today and I'm not going to repeat some of the statistics that my colleague has already said into the record, but I think that the opportunity to debate this issue was ample and I think we had a uniqueness in this committee in that the Minister of Housing was here so much of the time that it set a precedent. I haven't seen other ministers of

the crown appear at a committee like she did.

Having said all of that, I want to take up on the comment of my colleague opposite about the perception of the public. There is a point in time when one has to get on with the business of governing. I think we reached that brick wall. We have come to understand that some of my honourable colleagues on the opposite side have decided that we will not proceed with this bill because of their stalling tactics. I'll remind the members of this committee of exactly the job that they did on Bill 21.

You have to take a stand, reach a point and say, "If you won't allow us to govern, there's only one way we can do it," and that's with what we've done here. It's regrettable, in my opinion, that we have to resort to that, but you cannot go on like this. The public that I deal with in my riding who watch the proceedings in the House are absolutely fed up with the stalling tactics and the stupidity.

I got a number of calls over Bill 119, which was stalled last week on procedural tactics. It was absolutely, in my opinion, diabolical when we have a real health problem in this country vis-à-vis smoking and the Conservative Party stood on its high horse and derailed that. Is it any wonder that we do have closure?

**Mr Winninger:** Touché.

**Mr David Johnson:** It had to do with jobs; 1,500 people are going to lose their jobs.

**The Chair:** Further discussion? If not, shall Mr Mills's motion that the committee now report carry?

All in favour, put up your hand.

**Mr David Johnson:** Could we have a recorded vote?

**The Chair:** A recorded vote has been requested.

**Ayes**

Mathysen, Mills, Wilson (Kingston and The Islands), Winninger.

**The Chair:** Opposed?

**Nays**

Daigeler, Grandmaitre, Johnson (Don Mills).

**The Chair:** The motion is carried.

That completes this morning's agenda. The committee will stand in adjournment till the call of the Chair.

The committee adjourned at 1027.











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Thursday 21 April 1994

<b>Residents' Rights Act, 1993, Bill 120, <i>Ms Gigantes</i> / Loi de 1993 modifiant des lois en ce qui concerne les immeubles d'habitation, projet de loi 120, <i>M<sup>me</sup> Gigantes</i> . . . . .</b>	<b>G-1569</b>
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## STANDING COMMITTEE ON GENERAL GOVERNMENT

**\*Chair / Président:** Brown, Michael A. (Algoma-Manitoulin L)

**\*Vice-Chair / Vice-Président:** Daigeler, Hans (Nepean L)

Arnott, Ted (Wellington PC)

Dadamo, George (Windsor-Sandwich ND)

**\*Grandmaître, Bernard (Ottawa East/-Est L)**

**\*Johnson, David (Don Mills PC)**

Mammoliti, George (Yorkview ND)

**\*Mills, Gordon (Durham East/-Est ND)**

Morrow, Mark (Wentworth East/-Est ND)

Sorbara, Gregory S. (York Centre L)

Wessenger, Paul (Simcoe Centre ND)

White, Drummond (Durham Centre ND)

*\*In attendance / présents*

### **Substitutions present / Membres remplaçants présents:**

Mathysen, Irene (Middlesex ND) for Mr Dadamo

Wilson, Gary, (Kingston and The Islands/Kingston et Les Iles ND) for Mr Morrow

Wininger, David (London South/-Sud ND) for Mr Mammoliti

**Clerk / Greffier:** Carrozza, Franco

**Staff / Personnel:** Gottheil, Joanne, legislative counsel

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